MISSISSIPPI LAW JOURNAL

PROCEEDINGS

MISSISSIPPI STATE BAR

Thirty-Eighth Annual Meeting

INDEX FOR VOLUME XV

September, 1943

VOLUME XV NUMBER 4

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Mississippi Law Journal

JOURNAL of the MISSISSIPPI STATE BAR

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CHARLES F. ENGLE

Retiring President of Mississippi State Bar

PROCEEDINGS OF THE THIRTY-EIGHTH ANNUAL MEETING OF THE

Mississippi State Bar

Held in the City of Meridian, Mississippi, on the Third and Fourth of June, 1943.

The convention was called to order by Mr. Charles F. Engle, President of the Mississippi State Bar.

Rev. J. T. Williamson of Meridian gave the invocation.

A short address of welcome was delivered by Mr. Nate S. Williamson, President of the Lauderdale County Bar. Mr. Julian P. Alexander delivered the response to the address of welcome.

The next item on the program was the President's Annual Address.

President's Report and Address

Charles F. Engle

In pursuance of the custom in these matters it is now my privilege to make to you what through courtesy may be called a report of the activities of the Bar Association during the past year. When I was honored with this position last June, I imagined the great things that would be achieved before the next annual meeting and really thought that during the year to follow, great things would be accomplished by and for the Mississippi State Bar Association. Now the realization is pressed upon me of how little was achieved from the much conceived.

Looking around for some excuse to give you because of the paucity of accomplishment during the past year, I find myself unable to locate an alibi that would be worth mentioning. Surely I can not plead lack of cooperation on the part of the other officers or commissioners, who have served with me. Every commissioner has been most anxious to help and to cooperate to the fullest and I do not recall a single instance where I made any suggestion to the commissioners by letter or otherwise, that, without exception, the commissioners generously approved and authorized me to go ahead and do it; so where nothing was done the fault is mine and not the commissioners.

With respect to the officers of the Association, the First Vice-President's and the Second Vice-President's cooperation has been most sincere.

Our Second Vice-President, however, answered the call to serve his country and is now and for some time has been with our Armed Forces.

Our First Vice-President, Mr. Barnett, has attended every meeting of the commissioners and has diligently cooperated in every effort and has not stinted his time or thought in practicable help, respecting every movement attempted.

The first meeting of the commissioners was on June 22 and at that meeting we were all appalled to learn the number of practicing Attorneys who had neglected to pay the annual dues provided by law for the support of the Bar Association. While failure to pay was due to neglect on the part of some or to indifference or oversight; on the part of others the failure to comply with the law was most deliberate. As among all groups, we have with us some members of the Bar who feel themselves superior to the provisions of the Act creating the integrated Bar and who feel that they owe it to themselves and their imagined importance to refuse to pay the annual dues and to scoff at the provision of the law, which says that the privilege of practicing law should not belong to any member of the Mississippi Bar who fails to pay the annual dues. These members feel that by taking this stubborn attitude they are placing themselves in a class apart and, I must confess, they are correct. As a class apart it would be quite appropriate, if the other members of the Bar would in the everyday practice of the profession refuse to recognize these recalcitrants as duly qualified members of the Bar, but recognize them as deprived of the right to collect fees, file pleadings, appear in court, try cases, and file briefs or engage in any of the activities those members paying their dues are by law privileged to engage in. In order to remedy this condition, the commissioners at the first meeting in June of last year authorized me, as President of the Association, to take steps to collect from these delinquent attorneys the past due annual dues which should have been paid. Acting upon this direction and authority, efforts were made by correspondence and by the Bar Commissioners to get the attorneys who were delinquent to pay up their dues, and when it became apparent that entreaty and persuasion would be lost on quite a few of our rugged individualists a motion was made to have these attorneys denied the right to practice law and filed in the Supreme Court, and notice of the motion given to the Attorneys named therein.

Mr. Barnett, Mr. Cox, and Mr. W. H. Watkins of the Jackson Bar co-operated to the fullest respecting this motion and it was their thought, in which I concurred, that the motion should be continued from time to time so that every attorney delinquent might have the opportunity of rehabilitating himself, and this concession was extended as a matter of grace in the hope that all of the Attorneys named in the motion would respond.

With respect to a goodly number this hope was vain and the motion is still pending before the Supreme Court. This question of payment of dues has plagued former administrations and during the administration of former President Venable, the matter was discussed and he filed with the Secretary of the Association a brief on the constitutionality of the act creating the unified Bar. For the benefit of the Administration which will come into being with this convention, I am filing with the clerk a list of authorities collected by him, supplemented by a few cases decided since he filed his memorandum. As many of these delinquents consider themselves great constitutional lawyers and desire to be very careful respecting the Constitution, it may be that the publication of these authorities on the constitutionality of the act may induce some of them to come in out of the rain and get under the protection of the Constitution.

NEW RULES FOR TRIAL IN CIVIL CASES

At that first meeting we discussed just how the courts might get the benefit of rules of practice analogous to the Federal Rules of Civil Procedure and we were of the opinion that the first fifty rules might well be followed as a guide in designing new rules of civil procedure in our courts. We discussed as to whether or not our Circuit and Chancery Judges working in connection with our Supreme Court Judges might adopt a new set of rules but came to the conclusion that without legislative authority the rules would not have the proper sanction.

DISBARRMENT OF ATTORNEYS

Our next meeting of the commissioners was on September 14, 1942. Because of tire and gasoline rationing and the distance some of the commissioners resided from Jackson and likewise of the expense entailed on our depleted treasury to pay mileage attendance, we did not hold many meetings during the past year. At the September meeting our Secretary, Mrs. Alice Nevels, who has served the Association faithfully and well for many years, asked for and was granted a leave of absence, in order that she might join the military organization known as the WAACS, and Mrs. Josephine W. Wright was appointed to act in her place. She too later resigned, and Miss Lottie Kuykendall has ably handled the situation.

At that meeting the commissioners were confronted with a serious though disagreeable situation. The public generally is quite long-suffering and tolerant respecting the misconduct of those in professions, but two of the lawyers at the Jackson Bar had conducted themselves so badly that the patience of the public had become exhausted and the Chief of Police of Jackson, acting upon the urging of outraged citizens, insisted that the Bar Association do something about cleaning up its own back yard. A committee was appointed to institute disbarrment proceedings and these pro-

ceedings, following a later meeting on December 15, 1942 of commissioners, were filed, and the two attorneys involved have been disbarred by the Chancery Court of Hinds County Mississippi. One of these attorneys has appealed and the matter of his disbarrment is now before the Supreme Court.

It would be most ungracious and unfair were I to withhold from Mr. Barnett and from Mr. Harold Cox commendation for the very able manner in which they have discharged a most unpleasant duty to the Bar Association, to the Courts and to the people of Mississippi. Without their disinterested and able services prompted by a high sense of appreciation of their duties as lawyers, these proceedings could not have been handled as successfully as they were.

FINANCES OF THE ASSOCIATION

We have had the finances of the Association audited covering the incumbancy of Mrs. Nevels, Mrs. Wright and Miss Kuykendall, and the report of the auditor shows that all money received has been duly entered and accounted for. The members of the Association have been most responsive to a plan I sent out last month asking that dues for the 1943-44 period be paid. Report of the auditor is on file with the Secretary and is available to the Bar Commissioners and the membership generally.

MISSISSIPPI LAW JOURNAL

This publication, supervised and published at the University of Mississippi, deserves the unstinted approval and support of this organization. Representatives of the Law Journal will appear at this convention and state the financial necessities which should be met if this most admirable publication is to continue getting out the five issues each year as heretofore. I ask of you that you patiently listen to their presentation and generously and adequately respond thereto.

THE AMERICAN BAR ASSOCIATION

May I suggest that more Mississippi lawyers should associate themselves with the American Bar Association and that the annual meetings of the Association should find present quite a few members of the Mississippi Bar. Power and influence of that Association in national affairs is not always apparent, but undoubtedly it can be properly characterized as enormous. The best brains in this country, the most analytical and constructive brains are to be found among the members of the legal profession and the ideas for the solution of our governmental problems are furnished largely by members of the legal profession. Membership in the American Bar Association is not a matter of right but a matter of privilege. It is not something like membership in the Mississippi Bar Association which

comes as a matter of course. Membership in the American Bar Association is achieved by making application and by being recommended by lawyers already members and who can speak as to the applicant's character and ability. The activities of the American Bar Association are numerous and many have patriotic aspects. The question of admission to the Bar and to the right to practice law is a proposition that has challenged the attention of that great association and certain special scholarship qualifications are recommended for adoption in the various states as a prerequisite to the right to be admitted to practice law.

Last month I had the pleasure and privilege of attending the annual meeting of the Louisiana State Bar and there I heard a distinguished English barrister talk on the question of admission to the Bar in England as well as explain the method of practice there and the distinction existing between the barrister and the solicitor. Among other things he said that while educational attainments were desirable, they were considered as of less value than character. From his talk I gathered that it was next to impossible for success to be achieved at the English Bar either as a barrister or as a solicitor or even as a clerk, unless one possessed character. The Supreme Court of Florida discussing qualifications for admission to the Bar in a case reported at 186 Southern, page 287, goes into the proposition at length and I wish to quote some of the remarks made by Justice Terrell as to the qualification of character and which remarks appear on page 287, volume 186 Southern Reporter. Speaking of high educational requirements, he says:

"We unqualifiedly recommend such a standard, but we are encompassed by too much evidence to the contrary to even assert that it should be the only road to admission. We would not in the least minimize scholarship, but we do not consider it the most important part of a lawyer's equipment. It is important of course, but in our zeal for scholastic attainment we are overlooking and permitting to atrophy human attributes for which no amount of erudition will compensate. Let us say for example that seasoned character, a disciplined mind, industry, and legal lore are the primary essentials of a good lawyer. Other essentials might be named, but I can not conceive of a good lawyer without these and the secondary ones that are comprehended in them.

"Seasoned character has to do with one's appreciations. It is generated in an environment of stern realities and rigid discipline. It grows strong by surmounting obstacles, but degenerates if permitted to sail nothing but a smooth sea. The lawyer possessed of it appreciates the distinction between his own money and that of his client, and his conviction of that distinction is so intense that he will go hungry and suffer his loved ones to do likewise before he will misappropriate the latter. Seasoned character

is gilt-edged collateral at the bank and is to the good lawyer what the foundation is to his home. It contemplates moral sense; that sense by which the lawyer conceives and imposes on himself a correct rule of conduct to guide him in social and professional relations. It is by such a rule that he chooses between right and wrong and only through it that he is rescued from his own vices. It embraces intuition, the attribute in man that is akin to instinct in the lower animals, and, more than any other, made Marshall, Taney, Miller, Harlan, and White the greatest judges in this country. It is the most important factor in the lawyer's equipment; it holds honor and integrity above price, regards sacred the rights of others, and is the only virtue that withstands recession and decay in a man or society. A lawyer may be great without broad scholarship; he can not be great without character and intuition. Seasoned character comprehends a sense of professional ethics which can be best improved by excluding from the profession all those with a tendency to a low standard of moral conduct. Failure in the observance of proper standards of professional conduct is more ruinous to the profession than ignorance of the law or the lack of skill in its execution."

Impressed with the idea that it was my duty to the Bar of Mississippi to attend the meeting of the American Bar Association held during my term of office and which meeting was held in the latter part of August in Detroit, Michigan, I decided to attend that meeting and am quite happy I did so. I was much disappointed, however, to find that very few Mississippi lawyers attended that convention. I was happy, however, to find there Attorney General Greek Rice, and Gene Morse, and Hubert Lipscomb of the Jackson Bar. These gentlemen take quite an interest in the proceedings of the American Bar Association and have been frequent in their attendance in the past. At one of the sessions which I attended, there came up for consideration a resolution dealing with the question of strikes. The resolution having been offered by Mr. Cohane of Michigan is as follows:

"Resolved, By the American Bar Association in annual convention assembled, as follows:

1. That strikes in defense industries be immediately outlawed and are completely indefensible.

2. That it is an unalterable principle of the self-preservation of our nation in wartime that when there are differences between Capital and Labor a strike is not a solution.

3. That it is the solemn and sacred duty and obligation of the President of the United States and of the Congress as well as all of our people to immediately promulgate into law and into effective Presidential Order

a solemn pronouncement that strikes in defense industries will result in the immediate prosecution of those engaged therein."

The proponent of the resolution made what I considered to be a most able argument in favor of the resolution, but the resolution was not favored in high quarters and considerable opposition immediately developed. I felt that as representative of the Mississippi State Bar something should be said to reflect the sentiments I believe obtained generally among the Bar of Mississippi and so on the spur of the moment I took the floor to discuss the resolution. As you may not approve of the position assumed by me at that meeting and as I find that my remarks were taken down by the stenographer and reproduced in the American Bar Association Journal for October 1942 and as they are rather brief, I presume to burden this report with a reproduction of said remarks as follows:

"Mr. Charles F. Engle, of Mississippi, President of the Mississippi State Bar, took the floor to say that:

"I am thoroughly in accord with the remarks of the gentleman who presented that resolution (Mr. Cohane). That resolution is something specific; it does not dissipate its force in glittering generalities that get nowhere and mean nothing.

"I had in mind offering a resolution that Congress be memorialized to amend the draft law so that whenever a man with a deferred classification went on strike, his Local Board should cancel his deferment and induct him within ten days. When I heard that resolution offered, I did not present mine. It is well for us to consider the inferences and the implications that will follow should that resolution be turned down and should we, instead of looking at the question as virile Americans, look at it from the politician's standpoint.

"I believe we ought to adopt that resolution. If we do not, the inference and the implication will go out to the nation that this Association has committed itself to pussyfooting, and is cowardly in stating a position that lies close to the heart of every member of this Association.

"If we are to be worthy of this convention, of our high destiny and our call to duty we should fearlessly declare ourselves in no uncertain terms, that the man who refuses to work should be made to fight."

Sad to say the appeasers and temporizers prevailed and the resolution was defeated.

With respect to the labor situation and the striking of workers who are in essential defense industries, may not these strikers be compared to the

Tories who, during the Revolutionary War, held back, interfered and sabotaged our fight for independence? In fact, these strikers are working greater hardship upon our Armed Forces than did the Tories upon the Revolutionary Armies.

May I lay down the proposition that we have a right to do anything with these modern-day Tories, in order to preserve our Government, that our Fathers had a right to do against the Tories in order that this government might be founded?

The Old Continental Congress back in 1774 and '76 resolved that we ought to have something like Liberty in the Colonies, and that in obtaining this liberty, the Tories should not be handled with kid gloves. The Continental Congress did not hesitate to advise communities, and to authorize communities to form committees in every county and in every township, to seek out how the people stood touching the liberty of the Colonies, and when they came across a man who was not wholeheartedly and all out for the liberty of the Colonies, they did anything to him that occurred to the Committee to be the best way of handling the matter.

Many of these old time saboteurs were locked up in jail, deprived of their property and some of them were suspended at the end of the rope. They, our founding fathers, regarded the men who stood in the way of liberty as lost to every principle of honor, and respecting these men, the Continental Congress passed a number of resolutions recommending to the several communities just how these men should be dealt with. Here are a few of the resolutions:

"RESOLVED, That it be recommended to the several provincial assemblies or conventions or councils, or committees of safety, to arrest and secure every person in their respective colonies whose going at large, may, in their opinion, endanger the safety of the colony or the liberties of America. Journal of Congress, Vol. 1, page 149."

You will note respecting this resolution that there was to be none of the law's delays in handling the Tories; there was to be no grand jury indictment; no long drawn out trial. It was left up to the discretion of the committee to take every Tory who, in their opinion, in any way endangered the safety of the colonies and the liberty of America; to arrest him and secure him so that he could not do any harm.

This Continental Congress adopted another resolution along the same lines, here it is:

"RESOLVED, That it be recommended to the Executive powers of the several States, forthwith to apprehend and secure all persons who have

in their general conduct and conversation evinced a disposition inimical to the cause of America, and that the persons so seized be confined in such places and treated in such manner as shall be consistent with their several characters and security of their persons. Journal of Congress, Vol. 2, page 246."

In order to come under the above resolution, all the Tory had to do was to show a disposition inimical to the independence of America. How does the conduct and the effect of the conduct on these modern Tories in war plants who go on strikes match up with a disposition inimical to the preservation of our liberties?

The members of the Continental Congress were resolved not to waste time on anyone who even showed a disposition antagonistic to the cause for which we were fighting; they did not recommend that the committees in the several states exhaust all forms of appeasement, nor that the committees should implore and entreat and argue with these people. The members of the Old Congress knew that a war was no time to adopt appeasement policies, but that prompt action was necessary, and here is another resolution the Old Congress passed:

"RESOLVED, That the executive authorities of the States of Pennsylvania and Delaware be requested to cause all persons within their respective States, notoriously disaffected, to be apprehended, disarmed and secured until such time as the respective States think they may be released without injury to the common cause. Journal of Congress, Vol. 2, page 240."

In dealing with these Tories, the heroic Fathers of the Revolution violated the mails, made unannounced searches and seizures, and took every direct action that occurred to them in order that no Tory might be permitted to ham-string the fight for liberty. These Old Patriots cared nothing about the freedom of speech, or the freedom of the press, when those freedoms were used to work against the cause of liberty.

Suppose these old heroes were in the saddle now, what do you think they would do with the John Lewises, and the thousands upon thousands in war industries, who, for personal selfish purposes, entirely disregard the welfare of those in our Armed Forces, who are giving, and who are willing to give everything, even life itself, in order that our liberties may be preserved.

You may be assured that there would be no negotiations with these people, no temporarizing, no begging, no slapping on the wrist and requesting that these Tories be good. There would have been positive and direct action.

THE EFFORT IN CONGRESS TO ELIMINATE ALL POLL TAX REQUIREMENTS AS A PREREQUISITE TO VOTE FOR CONGRESSMEN AND UNITED STATES SENATORS WHETHER IN STATE PRIMARIES OR GENERAL ELECTIONS.

As this movement has back of it the idea of further curtailing states' rights, I feel some space should be given to its discussion.

CONSTITUTION OF THE UNITED STATES

ARTICLE I

Section 2. The House of Representatives shall be composed of members chosen every second Year by the People of the several States, and the Electors in each State shall have (the) Qualifications requisite for Electors of the most numerous Branch of the State Legislature.

No Person shall be a Representative who shall not have attained the age of twenty-five years, and been seven years a Citizen of the United States, and who shall not, when elected, be an Inhabitant of that State in which he shall be chosen.

AMENDMENT XVII

The Senate of the United States shall be composed of two Senators from each State, elected by the people thereof, for six years; and each Senator shall have one vote. The electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State legislatures.

PRINCIPLES OF INTERPRETATION

PRIMARY CONSIDERATION MEANING OF WORDS USED

The Constitution must receive a practical construction. Words are to be taken in their natural and obvious sense, and not in a sense unreasonably restricted or enlarged. "As men, whose intentions require no concealment, generally employ the words which most directly and aptly express the ideas they intend to convey, the enlightened patriots who framed our Constitution, and the people who adopted it, must be understood to have employed words in their natural sense, and to have intended what they have said."

I cite here a case that came up in Georgia. (Breedlove v. Suttles, 82 L. ed. 252). There was a poll tax of $1.00 and the law required that the $1.00 was for the maintenance of the government, the school funds, and required the registrar not to register anyone to vote unless he could show a poll tax receipt. I will read what the Court said:

Taxes,—equality and uniformity—poll taxes.

1. A state statute providing for the collection of a poll tax of $1.00 as a prerequisite to the right to register and vote at any election does not violate the equal protection clause and the privileges and immunities clause of the Fourteenth Amendment because it applies only to persons between the ages of 21 and 60 and to women only if they register for voting, or because, in the case of women, registration is permitted without payment of taxes for previous years.

Constitutional Law,—equal protection—absolute equality.

2. The equal protection clause of the Federal Constitution does not require absolute equality.

Election—right to vote—power of state over suffrage.

3. The privilege of voting at state election is not derived from the United States, but is conferred by the state, and save as restrained by the Fifteenth and Nineteenth Amendments and other provisions of the Federal Constitution, the state may condition suffrage as it deems appropriate.

Constitutional Law—privileges and immunities—what protected.

4. The privileges and immunities protected under the Fourteenth Amendment of the Federal Constitution are only those that arise from the Constitution and laws of the United States and not those that spring from other sources.

Elections—Nineteenth Amendment—making payment of all poll taxes a condition of men's right to vote.

5. The right of male electors to vote is not denied on account of their sex within the meaning of the Nineteenth Amendment of the Federal Constitution by a statute requiring of men between the ages of 21 and 60 the payment of all poll taxes, including those of previous years, as a prerequisite of voting, while requiring women to pay a poll tax only if they register for voting.

The pertinent facts alleged in the petition are these. March 16, 1936, appellant, a white male citizen 28 years old, applied to appellee to register him for voting for federal and state officers at primary and general elections. He informed appellee he had neither made poll tax returns nor paid any poll taxes and had not registered to vote because a receipt for poll taxes and an oath that he had paid them are prerequisites to registration. He demanded that appellee administer the oath, omitting the part declaring payment of poll taxes, and allow him to register. Appellee refused.

Appellant maintains that the provisions in question are repugnant to the equal protection clause and the privileges and immunities clause of the Fourteenth Amendment and to the Nineteenth Amendment.

He asserts that the law offends the rule of equality in that it extends only to persons between the ages of 21 and 60 and to women only if they register for voting and in that it makes payment a prerequisite to registration. He does not suggest that exemption of the blind is unreasonable.

Levy by the poll has long been a familiar form of taxation, much used in some countries and to a considerable extent here, at first in the Colonies and later in the States. To prevent burdens deemed grevious and oppressive, the constitutions of some States prohibit or limit poll taxes. That of Georgia prevents more than a dollar a year. Art. 7, #2, 3, Code, #2-5004. Poll taxes are laid upon persons without regard to their occupations or property to raise money for the support of government or some more specific end. The equal protection clause does not require absolute equality.

Payment as a prerequisite is not required for the purpose of denying or abridging the privilege of voting. It does not limit the tax to electors; aliens are not there permitted to vote, but the tax is laid upon them, if within the defined class. It is not laid upon persons 60 or more years old, whether electors or not. Exaction of payment before registration undoubtedly serves to aid collection from electors desiring to vote but that use of the State's power is not prevented by the Federal Constitution. Cf. A. Magnano Co. v. Hamilton, 292 U. S. 40, 44 (1933).

To make payment of poll taxes a prerequisite of voting is not to deny any privilege or immunity protected by the Fourteenth Amendment. Privilege of voting is not derived from the United States, but is conferred by the State and, save as restrained by the Fifteenth and Nineteenth Amendments and other provisions of the Federal Constitution, the State may condition suffrage as it deems appropriate."

The answer to the above decision and the numerous authorities in line, will probably be that at the time the said decision was rendered, Congress had not acted on the question but now that Congress has acted a different situation is presented.

THE FOURTH TERM MOVEMENT

When the third term movement was at its height the press of the nation carried extracts from expressions of distinguished publicists dealing with the evils inherent in the election and successive reelection of the same man as President. These quotations are pertinent in the present situation:

DEMOCRACY AT THE CROSSROADS?

Senator Robert La Follette: "The feeling with regard to the third term of a President is not based on idle fear. The power and prestige of the Chief Executive have grown continuously since the foundation of our government. Students of politics, both American and foreign, properly regard the President of the United States as the most powerful individual in the world. Establishment of the precedent that one man may continue to wield this power for longer than eight years would make a definite step toward the abrogation of popular government. Once the precedent has been broken that no one should hold the office for more than eight years, it will be difficult if not impossible to prevent re-election for 12, 16, and perhaps 20 years."

Grover Cleveland: "When we consider the patronage of this great office, the allurements of power, the temptations to retain public place once gained, and more than all, the availability a party finds in an incumbent whom a horde of officeholders, with a zeal born of benefits received and fostered by the hope of favors yet to come, stand ready to aid with money and trained political assistance, we recognize in the eligibility of the President for re-election the most serious danger to that calm, deliberate and intelligent action which must characterize a government by the people."

Dean Young B. Smith, Columbia Law School: "Now for the first time in American history a President has been nominated for a third consecutive term and there can be no doubt that if once an exception is made the restraint of the third-term principle will be gone forever. The situation calls for a critical analysis of the soundness of the basis for this principle. If it has a sound basis and if it is—or may in the future provide—a safeguard to our form of government, it should not be thrown aside, especially at a time when democratic institutions throughout the world are giving way to dictatorship and tyranny."

There is at this time a further objection to President Roosevelt allowing his name to be presented as a fourth term nominee of the Democratic Party. Before the last election was held, President Roosevelt gave his solemn word on this issue and the meaning and substance of his expressions are that he would not be a candidate for a fourth term. For him now to violate his pledged word will afford a sad example of lack of virtue in high office. For him now to break his word because of selfish or any other consideration, would scandalize the conscience of the people. After his first and only nomination by the Republican Party and after his only election as President, the late Theodore Roosevelt said that he would regard his filling the unexpired term of President McKinley, who was murdered, as a first term and therefore would not seek to be again elected President for a third term. This statement was not made to catch votes

or as an inducement to bring about his election. It was an impulsive statement made while he was flushed with the thrill of victory; even so, when he later went back on that statement the nation was shocked. President F. D. Roosevelt's statement amounted to a contract with the electorate to the effect that if they would return him for a third term he would not seek a fourth.

We will here discuss a proposition that lies close to my heart.

THE SOUTH AT THE CROSS ROADS

HOW THE ELECTORAL VOTES MAY BE USED TO PRESERVE IN THE SOUTH THOSE INHERENT AND FUNDAMENTAL RIGHTS OF WHITE SUPREMACY SO NECESSARY TO THE PRESERVATION OF OUR IDEALS AND CIVILIZATION AND OUR LIFE AS A FREE PEOPLE.

The Constitution of the United States in Article 2, Section 1, provides how the President is elected. As is well understood the people do not vote for any special candidate for President or Vice President. The people vote for Electors, and these Electors are selected in such manner as the legislature of each State may direct. The number of Electors in each state is equal to the whole number of Senators and Representatives to which the state may be entitled in the Congress. In Mississippi, Electors are nominated by the several political parties and the names submitted to the voters at the general election for Presidential Electors. Presidential Electors, though appointed pursuant to the Constitution of the United States, are no more to be considered officers or agents of the United States than the people of the states, when acting as Electors of Representatives in Congress. When the election is over and it is known what Electors are elected in each state, then those Electors for President or Vice President in each state are required to meet and give their votes on the first Monday after the Second Wednesday in December next following their appointment, and they meet in such place in each state as the legislature of such state shall direct. At such meetings the Electors can vote for any native citizen of the United States they may desire. The Electors selected in Mississippi could vote for any one of you. However, it is an unwritten law that the Electors shall vote for the nominee of the particular political party which had their names placed on the ticket; but if these Electors accept their nominations with qualifications as to how they shall vote, then that would be bound by a solemn contract. The question of the White Democrats of the South forming a new party presents so many practical difficulties as to make it not worthy of consideration at this time. Electors in the South can be elected only upon their nomination in Democratic State Conventions. Heretofore, Southern Presidential Electors have been taken

for granted and have blindly cast their vote for the nominee of the National Democratic Party regardless of how inimical that person might be to the preservation of those ideals and practices which the Southern people believe to be theirs by nature and by right of race. They have voted heretofore for the Democratic Nominee, even though he had demonstrated that he had no pride of race and that he is committed to destroying the purity of the blood that courses in the veins of white men and women; even though they knew he intended to do his best to destroy segregation and separation of the races and to force intermingling of the races on terms of social equality in the departments at Washington and elsewhere throughout the nation. All of that can be changed, provided some formula may be adopted by which the votes of the Electors in the Southern States may be directed and controlled so that the full force and power of the Southern Electoral votes may be used to obtain fair and decent treatment for Southern ideals and Southern interests. All that we need to do is to devise and adopt a workable formula. One has been suggested to me and it is this:

Let the Governors of all the Southern States associate themselves together into a Council to determine for what candidate the Southern Electoral votes shall be cast for President and Vice President. Let the Southern States in their State Democratic Conventions pledge the Electors to abide by the choice of this council. It is doubtful if any nominee of the Democratic Party can be elected without the Electoral votes of the Southern States and it is clear that the Council of Governors will have an opportunity between the election in November and the meeting of the Electors on the First Monday after the second Wednesday in December next to get together and have an understanding that the candidate for President and Vice President to receive the Southern vote will give to the white people of the South equal civil and natural rights and a square deal. It is quite possible that if the Electoral votes of the South be not given to any candidate Republican or Democratic that then no candidate shall receive a majority of all votes cast and the election of the President and Vice President will be passed to the House of Representatives where the representation from each state shall have one vote. Unless something along these lines is attempted I can see for the South and the Southern white people much misery and many dark days.

In some way the Electoral votes of the South must be made to be effective in national elections, to secure white supremacy. You know the Presidential Electors are nominated in Mississippi in State Conventions of the Democratic electors, and Republican electors are nominated or appointed at committee meetings. Whatever security and decent treatment the South is going to get we want to get it through the Democratic party. So if some formula could be devised by which, after the election and before the Electors have to cast their votes, a Committee or body agreed upon,

may counsel and deal and shop and bargain so in the South we can at least have equal rights for the white people, so we can have racial segregation here if we want to, so we do not have to sit at the same table, use the same toilet facilities, sleep in the same hotels, ride in the same compartment as is being tried to be forced upon us, the National Democratic Convention Delegates would hesitate to nominate anybody they might think the Southern Electors' vote would not go to and without which vote no Democratic President can be elected. The point I want to drive home to you members of the Mississippi Bar and to all white people in the South generally is that we are faced with a tragic, a dangerous and a serious situation and we have got to do something about it. We just can not take it lying down. We have to have some arrangement with the Democrats of the North that we can not be expected to put their men in office and then be kicked around all the time, and I give it to you to think about. I am not committed to this formula of having the Council of Governors appointed, but I mention it because they are representative men and men of character, but if we could get together on a plan there would be racial segregation in Washington and elsewhere, equal but separate facilities instead of the rotten system we have now. And it is my hope that this question shall be so handled that when this war is over we will have in this country not only the American way of life, but we will have also the Southern way of life, and it is my prayer that such will be a reality when the lights go on again all over the world.

Following his address, President Engle introduced Mr. Hardy M. Graham, of Meridian, who announced the Ole Miss Law Alumni luncheon. Mr. Engle announced the breakfast for all of the past presidents of the Mississippi Bar and for the speakers on the program.

President Engle then introduced Mr. Ellis B. Cooper of Laurel, whose address follows:

HISTORIC RIGHTS ENDANGERED

Ellis B. Cooper

Now, gentlemen, in this day and time, to criticize the government is easily done and should be done with a great deal of caution. Nobody knows better than I do what government means to a people. It was my privilege during the last war to be in a country dominated by hostile troops. It was there that I learned just what government meant to us, something I had never appreciated before, something I had no adequate conception of, and it is my hope that of all of these problems that have been brought to you and will be brought to you in the course of this discussion will be solved by the boys who are now over there, because, if there is any lesson

they are going to learn, it is a lesson of what our government means and what privileges we have and what rights we have and how much effort must be devoted to the preservation of those rights.

In these day when one should be thankful for any type of government and especially a government wherein the voice of the government may be heard at all, it may be considered impertinent to say anything in any way critical of a government such as we now have. And what little I have to say is in no sense to be construed as a criticism of anything that may be done or anything that is now being done in our effort to win the war. The business of fighting a war and of bringing all of our power to bear at the right place and at the right time will justify almost any departure from the standards of government which receive our approval in the times of peace. But there are tendencies in our government in peace time which should receive the attention and careful consideration of all citizens and certainly the lawyers of the nation.

It is very difficult to say anything about the matters which I have been asked to discuss without entering the domain of politics, a domain in which I have no ambitions and in which my activity is limited solely to the exercise of my rights as a citizen. I observe from the papers that our candidates are taking positions on this subject and that subject. With these views, I have not concerned myself and I would not have anything that I say to be construed as a reflection on the views of any person who is now a candidate for office.

The other day I read in the newspaper where some person or organization advocated the teaching in our schools of the doctrine of States' Rights and its significance to the people of our country. I would go farther and advocate not only the teaching of this subject but its entire historical background. It is only in a study and full comprehension of what moved the founders of our government in the creation of our Constitution that we can have any proper appreciation of the rights which have been handed down to us and which, as a great many see it, are gradually being whittled away or compressed to such an extent that they have little value.

It would not hurt for the Bar as a whole to go back to their histories and refresh their recollection of the struggles, the trials, the tribulations and the bloodshed which the founders of our government suffered before they wrote into the Constitution of the United States and the immortal documents preceding it their conception of liberty and the type of government which would best preserve it.

It seems from reading the books, that the members of the Bar will have to relearn their constitutional law anyhow and it might be well, in

the process of relearning, to go back into our histories and learn again the reasons why.

One of the most unfortunate traits of the human race is the ease with which it forgets. The present generation gives little thought or concern to the facts of history. With some immediate end in view whose accomplishment is apparently desired above everything else, its advocates treat with impatience the rights secured to the citizens by our fundamental law and ridicule the courts in their efforts to protect those rights. No better illustration of this can be found than in the efforts of the courts to protect the citizens in their rights to be secure in their persons, houses, papers and effects against unreasonable searches and seizures. Those persons who had in their minds the elimination of certain evils were impatient at the obstruction placed in their paths by this provision of our Bill of Rights and the courts were made the butt of ridicule and derision for their alleged technical enforcement of this provision and the preservation of this right. Yet, if those well-intentioned persons would stop for a moment and consider how little the end which the accomplishment of the purposes which they had in mind would appear as compared with the tremendous effects that the whittling away by judicial construction or legislative action would have upon the rights of our people as a whole, the ridicule and derision would immediately disappear.

I say these things because we appear to be reaching a crisis in our governmental affairs. And it is in crises of this nature that the lawyer must bear more than the individual responsibility resting upon him as a citizen. It is he who knows and understands and to him our citizens look for leadership and counsel and advice. Our people, north, south, east and west, want a government such as our founders had in mind when the Constitution of the United States was framed. There can be no doubt about that. We are fighting this war to preserve our mode of living and certainly nothing is more important to our mode of living than the type of government under which we live and the rights which are secured to us by our fundamental law. And there are one or two phases of the present tendencies of those in authority that I want to call to your attention.

If there is anything outstanding in the minds of those who founded our government and in the mind of the man on the street today, it is that the legislative, judicial and executive functions of government should be kept separate and apart. Indeed, some of our greatest judicial battles have arisen as a result of the conflict between two of these great departments of government. Our greatest opinions have been written in the solution of these problems. The responsibility for the execution of the laws has been squarely placed upon the president. The judicial power is vested in the courts. And the Constitution provides that "all legislative powers herein

granted shall be vested in a Congress of the United States which shall consist of a Senate and a House of Representatives." It is fundamental that this legislative power may not be delegated, may not be abdicated, and may not be transferred to others. Yet, the practice of creating bureaus, commissions, agencies, and the like has become so common that the establishment excites no particular interest. The law establishing the bureau, or agency, or commission usually concludes with a provision that the administrator is empowered to make all necessary rules to effectuate the purposes of the act. The administrator with the personnel of the bureau, agency, or commission is usually appointed by the executive department of the government and is responsible to the executive department alone and is subject to no control except judicial control or its abolition by the legislative department. The bureau thus enjoys the power to make and enforce rules and regulations which is a combination or merger of the executive and the legislative functions of government.

Once installed, the bureaucrats proceed to establish their rules and regulations. These in a large number of instances are acts of pure legislation, affecting the lives and well-being of our people as much as an act of Congress.

This is done in the privacy of the offices of the bureaucrats without a public hearing, without public discussion, and without even any notice to the public or to those whose interests will be affected. In fact, the first notice is usually in the application or enforcement of the regulation. All of this is done by individuals whose commission issues from the executive branch of the government and who feel no responsibility to the people and who in point of fact are not responsible to the people. In fact, the lack of interest in those whom they are supposed to serve has become so well known that Bureaucracy is defined as "a government by bureaus, especially by rigid and arbitrary routine."

It will be said that such acts of the bureaucrats are unconstitutional and void. They have in a number of cases been held to be void. The Supreme Court of the United States, however, recognizes the power of Congress to transfer to a bureau or commission the right to make subordinate rules within the prescribed limits and to find the facts to be used in the enforcement of the declared policy of Congress. But as a matter of practice and as a matter of ordinary horse-sense it is well known that the average man is in no position financially to have the legality of the rules and regulations determined. In addition to this there is usually attached a fine and penalty for violation of the rules and regulations.

So it is that we are permitting a growth in our government where a large measure of the government in the way of legislation is being trans-

ferred to a group of appointed persons, responsible only to the power appointing them. But that is not all.

If there is one thing thoroughly a part of the average American's idea of right and justice, it is that when his rights are involved, or his asserted rights are to be taken away from him, or determined, it shall be by an impartial tribunal and not by a tribunal which is both judge and prosecutor. We have in this government today bureaus, boards and commissions who not only try the issues involved but who by their own investigation develop the facts, initiate the trial, create the issues, and then decide the case. Such procedure is not rare. On the other hand it is very common and I unhesitatingly say that to the average man such procedure is repulsive and contrary to every instinct of the Anglo-Saxon race. But the laws do not stop there. They go ahead and provide that the findings of fact by such bureau, board or commission shall be conclusive if any adequate support is to be found in the evidence. And the determination of this question is usually left to some appellate court which is limited in its inquiry to an examination of the printed record.

I do not say these things because some particular bureau, board or commission has committed to it the enforcement of any law with whose provisions any of my clients are not in agreement. The end sought in the establishment of these bureaus and commissions, regardless of how much we might desire the accomplishment of that end, will never justify the establishment of bureaus and commissions who have the power to exercise any of the functions of the judicial or legislative departments of our government. The easy road to State Socialism is an unrestrained bureaucracy subject to strong central leadership. We now have, as I am advised, 110 departments, boards, bureaus and agencies of government. Some of these are with us only for the duration but some will be with us forever unless Congress can be made to see the plight in which we are getting ourselves and meet the responsibilities imposed upon it by the Constitution as the Constitution expects that it will and as the citizenship expects that it will. Bureaucratic government is now new. Its dangers are not unknown. Its effect on free peoples has been disastrous in the past. It is now necessary for business men and lawyers to subscribe to certain services which furnish the report of the actions of these boards and bureaus. They come each week and often in large quantities. Senator O'Mahoney reports that in one issue of the Federal Register there were sixty-six laws or directives expressed in 50,000 words issued by 16 of the 110 departments, bureaus and agencies of government. Few, if any, of these bureaus have ever been abolished by Congress. Their deaths have come, if at all, as a result of judicial action. The bureaucrat is arbitrary. He is autocratic. He limits his view of life and his hope of accomplishment simply to the en-

forcement of the rules and regulations established by him and enforced by him. Lord Hewart in his work on "New Despotism" in discussing the fall of Rome, as quoted by Senator O'Mahoney, says:

"Of all methods of administration that is worst whereby real power is in the hands of one set of persons while public responsibility belongs to another set of persons. It is a Method, as all experience shows, well calculated to encourage the performance of acts which either set of persons, if they had both the responsibility and the power, would be astute to avoid."

Bureaucracy is a government of men and not of laws. And a government of men is a long step toward dictatorship. I wish I were in a position to give personal experiences which tend to substantiate the last statement. A recital of these, however, would involve others who are not responsible for what little I have to say today. No doubt many of you have had similar experiences and the recital of the experiences of others would be of little value. But bureaucracy today is a definite danger to the American people and will be in the end supplant our constituted authorities and require us to live under a government of men and not of laws.

The people of the South have for a greater part of its history been great lovers of their local governments and great believers in the doctrine of States' Rights. We have followed the party consistently that voted for the maintenance of local self-government with a central government of limited powers. That this was the view of those who lived and worked when our government was founded is well-known to all. It was unfortunate, indeed, for the South that its political views on the nature of our government should have become so closely linked with the question of slavery. Many of our people who fought, bled and died in the Civil War were not in accord with slavery but did believe in the rights of the States as reserved in the Constitution of the United States. Most of us who were born and reared in the South have grown up with the views of our fathers who offered their all on the altar of sacrifice in the Civil War. We are so today We believe that a greater share of human happiness can be obtained through governments closer to home and more directly responsible to the citizenship in dealing with problems peculiar to that state. We believe in a strong central government to enjoy the powers entrusted to it by the Constitution of the United States. These powers, their comprehensiveness and their limitations have been well defined and interpreted by the Supreme Court of the United States, the final arbiter. But in the last few years the people of our country have faced depression and war. Our particular hardships have for a time closed our eyes to the advancing front of government. The lawyer has seen the rights of the national government enlarged by judicial interpretation to such an extent that the rights of the states in that particular field have practically vanished. When they vanish

in that way, it is just as thorough and complete as if taken by constitutional amendment or by revolution. And it is done by those whose purpose is the accomplishment of an immediate end and with their eyes closed to the final result on the common good. Whether this is right or wrong, I would not attempt to demonstrate. But I do believe that those who came to this continent to escape tyranny and oppression and who fought a great war to throw off tyranny and oppression over here must have through bitter experience learned more of what is necessary in government than those of us who live in the ease afforded by modern civilization. Principles that have stood the test of time should not be repudiated for the sake of expediency and this is the tendency of the times.

Those of us who studied constitutional law twenty-five years ago will find a different text were we to open a book of today. Few of us ever dreamed that government would supervise what we plant on the lands owned by us in fee simple. Yet the farmer for financial reasons has permitted it to be done. Few of us ever dreamed that the Congress of the United States would regulate and fix the minimum wage of laborers in factories and fix the hours of labor in vocations where the safety of the public was not specifically involved. Yet, all of this has been done. Whether this is wise or not, I do not attempt to say. But to surrender the right to grow on your land, or to grant any one the right to supervise and control it, is a surrender of no mean proportion. To surrender the right to work at your trade for the support of your family as long as you wish is quite a surrender. And many instances of a similar nature may be supplied.

To do this, there has been added to the three musketeers of the police power, public health, public safety, and public morals, a fourth, economic welfare.

I was greatly heartened the other day by the report that the Mississippi Press Association had not accepted the proposed subsidy offered the press through government advertising.

The method of encroachment is through an offered subsidy, a higher wage, or the payment for a service. Nevertheless, the opening is made. Freedom and its attendant rights, paid for not in money but in blood, suffering and sacrifice, should not be sold or traded for in terms of money or temporary financial gain. Permissive control may soon ripen into control as a matter of right. Those of us who believe in the right of the states to enjoy exclusively those rights reserved to the states, and who believe in local self-government should look with fear upon the Greeks bearing gifts.

There has been of late introduced into the House of Representatives and passed by it a bill to abolish the requirement of the payment of the poll tax to enable one to vote for members of Congress and elective Fed-

eral officials. This bill has as its target the Southern states only. It is a deliberate effort to enfranchise the negroes of the South and in so doing in some of the Southern states it would pass to them the control of the government and place in their hands the election of our senators and our representatives in Congress. We are thus confronted with a threat to place us in the same plight that the people of the South faced during the reconstruction days. What constitutional authority Congress has to determine the qualifications of the voters of a particular state, I have been unable to find in the books. The Fifteenth Amendment furnished the only power Congress has to control the qualifications of the voters in a particular state. And this amendment simply provides that neither the United States nor any state shall have the power to deny or abridge the right of a citizen to vote on account of race, color or previous condition of servitude. The amendment has been construed by the highest authority as not conferring the right to vote on any person. Yet, this bill makes its appearance in every session of Congress and has twice received the approval of the House of Representatives. It is sponsored by at least one person in high authority, by the Society for the Advancement of the Colored People, and other negro organizations, persons in high authority in the labor organizations of the country, and representatives of organizations of parties professedly revolutionary in their nature. Their idea is to enfranchise the negro and through him and the representatives elected by him to remold this country of ours and our mode and method of living. Why a bill on its face violative of the Constitution of the United States should receive such determined attention and the support of intelligent men is beyond the understanding of a majority of the Southern people, unless there is to the sponsors some fair indication that the rights of the several states to determine the qualification of their electors will in some way be taken away from them. It was only a little while ago that the anti-lynching bill, directed solely at the South, occupied the attention of the nation. It is sponsored by the same organizations and finds as little support in constitutional authority as the anti-poll tax bill. These are but examples of the pressure that organized minorities can bring to bear upon the departments of our government for action favorable to their interests. In fact, it is much better, if you have some selfish purpose to serve, to belong to the organized minorities than to be a member of the great unorganized majority. The poll tax bill was sponsored by the representative of the American Labor Party and by the negro representative from Chicago and the New York representative who represents the district which includes Harlem in New York City. It passed the House of Representatives with a comfortable majority of men who had sworn to uphold the Constitution and laws of the United States. While the majority of the American people work at their trades, occupations and professions, these organized minorities are constantly at work to accomplish their purposes whether it

be the destruction of the peace and happiness of millions of the citizens of the country or not.

I was never so impressed with the magnitude of the burden that rests upon the shoulders of the Representatives and Senators of the South in their fight to prevent the passage of vicious legislation aimed directly at the people of the South as I was in a case recently tried in South Mississippi which involved to a certain extent some of the problems which confront our Senators and Representatives. I realized that what I saw was in no way a fair sample of what these heroic men undergo. This was a determined effort, sponsored, as I have been given to believe, by one or probably more of the organizations I have referred to above to have the long arm of the government reach down and take control of some of the affairs of our lives heretofore considered to be of local concern and local concern only. The Department of Justice with all of its power, with all of its resources and with all of its able attorneys was endeavoring to lay the predicate for a possible new exposition of the principles of the Fourteenth Amendment of the Constitution of the United States and the Acts of Congress known as the Civil Rights Law. Reporters from papers all over the country were present, believing that the case might be a land mark in American jurisprudence. There was not a lawyer in the case for the defendants who believed in lynching or who upheld lynching. Their fight was not only to establish the innocence of the accused but to preserve as far as they could the existing law as to the powers of the State government and the lack of power in the national government. That this was the general conception of the case is shown by an editorial in The New Republic in its issue of May 3, 1943, where it is said:

"The acquittal of a deputy sheriff and two other white men in the lynching case at Hattiesburg, Mississippi, will be celebrated as a victory by many anti-negro southerners and by others who are states'-rights traditionalists."

Thus it is that those who sit in swivel chairs in the offices of the nation, overlooking riots right under their noses and knowing little of the problems that we have, are insisting that the rights reserved by the states be nullified and that national government under the guise of constitutional authority shall take over. And we who look about today see manifestations of unrest and observe that a problem which we have had with us for many years is becoming now more and more acute. It is for the future, but the present generation in the South, many of whom fought for the nation in World War I and many of whom are now offering their lives in the present war for the preservation of our mode of living, still cling to this government as formed because we believe that in so doing the utmost of happiness can be obtained.

I thank you.

The meeting then recessed.

AFTERNOON SESSION

June 3, 1943

The meeting was called to order by President Engle, who announced that the first matter on the program was the presentation of Committee reports. He then read the report of the Committee on the Unauthorized Practice of Law:

COMMITTEE ON THE UNAUTHORIZED PRACTICE OF LAW

Your Committee has held no formal meetings during the year. It is the opinion of the Committee that this is a stand-by Committee, the activities of which are only to be sought when problems arise. Such problems have not been apparent this year, and the Committee has received no complaints from the Association. The committee is composed of members of the Association from all parts of the State. There has not been received sufficient unauthorized uncovernment to require any action by the Association. While it may be that there is no active work which probably may be done by the Committee on the Unauthorized Practice of Law, this Committee recommends that this Committee be continued in order that problems that may arise in the future may be handled.

Charles B. Snow, Chairman
George W. Currie
E. B. Williams
Joseph Brown
J. E. Caradine

Mr. R. W. Thompson, Jr., of Gulfport submitted the report of the Finance Committee:

FINANCE COMMITTEE

We, the undersigned Finance Committee, submit herewith our report and recommendations for the ensuing year. We have carefully examined the audit for the past fiscal year prepared by Dick D. Quinn & Company, and in view of the present conditions brought about by the World War II, and since so many of the members of the bar of the state are now serving in the armed forces, we feel that it is going to be necessary for the association to continue its policy of strict economy as it has done during the past year. We feel that the financial condition of the Association at present is good, but that this condition was brought about only by the curtailment of appropriations at the last annual meeting of the Association.

We wish to commend the officials of the Association and those who were charged with the expenditure of the funds paid into the treasury during the fiscal year just ended, for the splendid condition of the treasury as revealed by the aforementioned audit. We are glad to report that the State Bar Association is on a sound financial basis, and that there is now a balance on hand of $1,080.85, an increase over last year's balance of $432.13.

Although the Association is on a sound financial basis, we do regret to report that the audit reflects that delinquent dues amount to $2,535.00. This is approximately the same delinquency revealed by the audit one year ago, with a total delinquent dues collected during the year of $485.00. While these collections reveal that a great deal of good work has been in the collection of delinquent dues during the past year, your committee strongly urges that the incoming administration use every effort to eliminate all of the present delinquency during this period of prosperity caused by governmental expenditures.

Your committee estimated that during 1942-1943 the receipts from dues collected, included current and delinquent dues, would not exceed $5,600.00. The actual receipts for the year to May 25th, 1943, from May 31st, 1942, amounted to $5,295.00. We anticipate that for the fiscal year, 1943-1944, the receipts will be even less than this amount, due to the fact that there are now more members of the Association in the armed forces than have been during the past year. For that reason we recommend that no increase in appropriations be made, and that the budget for the year 1943-1944 remain the same as for the past fiscal year, which is as follows:

Secretary's Salary	$1,800.00
Law Journal	1,600.00
Bar Commissioners Expenses	600.00
Convention Expense	400.00
Junior Bar Section	250.00
Office Expense	700.00
Miscellaneous Expense	100.00
TOTAL BUDGET FOR 1943-1944	$5,450.00

From an investigation of the Audit it will be seen that some of the items of expense were kept within the adopted budget for the past year; however, some items exceeded the budget as adopted. We do wish to impress on the incoming administration the importance of living within our means, so that when those who are helping to fight our battles around the

world return to take their places in our midst again, they can do so with the assurance and pride that they are not returning to a defunct organization.

Respectfully submitted,

Reece O. Bickerstaff, Chairman
Rae Bryant
R. W. Thompson, Jr.
Jack R. Lobrano
O. B. Mylett

Mr. Thompson then offered the following remarks:

Mr. Thompson: Now, Mr. Chairman, before I move the adoption of this report, I would like to bring this to the Association's attention. In the first place there is an item of $1800 for the secretary's salary. However, after Mrs. Nevels had been granted leave of absence, and later Mrs. Wright who had substituted for her resigned, Miss Lottie Kuykendall, connected with the Attorney General's office, agreed to do the work for a very small sum. While it is not within our province to pass upon what shall be done in the ensuing year, we know that she is willing, if it is agreeable to the incoming commissioners, to do this work for $50 a month and says she can handle it, and she has the permission of the Attorney General. Her office is across the hall from the Mississippi State Bar Office. If that is done and all we can do is merely recommend it, it will mean a saving of $100 a month to the Association in the coming year.

The next item is the Law Journal. Mr. Barnett and I, acting for the commission, had quite a lengthy conference with the staff representing the Law Journal. In going over the conference, we have found this situation. The Law Journal operates on a calendar year, and the Mississippi State Bar operates on a fiscal year from June 1 to June 1. In consequence, a situation has arisen each year where in the appropriation for the ensuing year they take a part of the appropriation to pay a part of the issues of the preceding year. Those gentlemen have agreed so that they will now operate on a fiscal year that will coincide with our fiscal year. With the money paid out of last year's appropriation they now have on hand $257.15, with which to publish the issue that will record this Bar's proceedings. That would not be sufficient within itself to pay for this issue, but they have estimated by curtailing the number of issues that are to be published and economizing as much as they possibly can, they can take the $257 with the appropriation we will recommend, and by June 1944 they will either be in complete balance with the Association or have no deficit. After discussion with those gentlemen I feel that will be true. For that reason and with the estimate they have, I wish to have the report amended that the appropriation be cut from $1600.00 to $1300.00. With that amendment and

with the suggestion that we ask the incoming administration to curtail the secretary's salary with either Miss Kuykendall or someone else, I move the report be adopted.

The report was adopted as amended.

The report of the Study Committee was then read by Judge Geo. H. Ethridge.

STUDY COMMITTEE

JUDGE ETHRIDGE: Your Study Committee has had under consideration a number of propositions and because of the good will with which the Federal Rules of Civil Procedure of the District Courts of the United States have been generally received over the entire United States by practitioners in the Federal Courts, it is the opinion of this Committee that certain of these Rules should be adopted as Rules of Civil Procedure in our state courts. The Committee does not feel that the entire body of the Rules are such as would facilitate practice, but that wholesale changes in the entire procedure in the courts would be unwise at any time. However the Committee does feel that particular Rules dealing with taking of depositions and propounding interrogatories, and certain of the Rules governing pleadings and procedure in said Federal Court would be helpful in Mississippi; therefore, your Committee respectfully recommends for your study and consideration the adoption of the following of the Federal Rules of Civil Procedure, namely: Rules 5, 7, 8, 9, 12, 14, 26, 27, 29, 30, 31, 32, 33, 34, 36 and 37.

We recommend that meetings be held in each Circuit Court District between this convention and assembling of the Legislature in January next, to be attended and addressed by the President of this association or by some other person appointed by the President for that purpose to discuss with the members of the Bar of such districts the desirability of adopting these said Rules, said Rules being copied and appended to this report as they appear in Federal Rules of Procedure for the study of those interested in said matter.

We further recommend that existing laws be so amended that parties may waive trial by jury and trial of all matters of Law and fact may be had, in all civil matters, before the Circuit Judge, said Judge to make findings of fact and law, in each case, to go in the record in case of appeal, without reference to consent of the Circuit Judge to hear and determine such cause.

We further recommend that whenever a suit contains only questions of law and are for decision of the Circuit Judge that said cause may be determined by them in vacation and whenever the cause is triable before the

Circuit Judge by agreement of the parties, and the trial has been begun in the Circuit Court, same may be taken under advisement by the Judge to be decided in vacation on a fixed date, and at a fixed place, and judgment rendered in the same manner and with the same effect as if tried and rendered in term time.

We further recommend that the Judge may hear and determine all matters affecting the pleadings, or the sufficiency of the pleadings to support an action or any matter affecting preparation of the case for trial, may be had in vacation at a time and place to be fixed by the judge, or on agreement of the parties.

We further recommend that a Rule day be established in the Circuit Court the same as in the Chancery Court; and on said Rule day the clerk of the Circuit Court may grant appeals, issue writs of certiorari to the justices of the peace courts, to municipal courts, and any other inferior court, other than the county court, and take necessary bonds in such cases; that said clerk may also take judgments pro confesso, or by default, in case no pleadings are filed, which are due to be filed, and may issue other necessary orders in such cases to secure needed documents or papers pertinent to the case at the term time of the Circuit Court.

We are further of the opinion that some additional legislation should be had to deal with the criminal element of the state; and to the end that needed information be had we recommend that the next session of the Legislature be requested to consider such subject and enact suitable laws to secure information from various courts of the state having criminal jurisdiction, showing the result of trials, of fines, of sentence imposed, etc., and for dealing with criminal organization in a somewhat different way from ordinary causes so as to render more effective enforcement of the criminal laws against members of organized criminal bodies.

The following discussion concerning the report of the Study Committee ensued:

JUDGE ETHRIDGE: The purpose of this report is to have the rules published in the proceedings of this meeting to be considered between now and the next meeting of the Legislature and, if deemed appropriate, the President may call a meeting then to report to the Legislature if any of them are to be adopted, and to secure their adoption if possible by the Legislature. I move, therefore, that the report be received and published in the Journal. I do not ask for the adoption of the report for final judgment at this time, but these recommendations and rules of procedure should be published and submitted to the next Legislature, if they receive the approval of these district meetings, or a sufficient number to reflect the

sentiment of the Bar of this State. I move, therefore, that the report be received and published.

JUDGE BOZEMAN: May I ask a question? The copy of the rules attached to this report, are they just copies of the Federal rules or rules modified as the Committee recommends adoption by the State?

JUDGE ETHRIDGE: They would have to be changed to make them rules of Mississippi, leaving the formation of the statute in adopting them to be determined in the several Circuit Court districts and to be worked out by members of the Legislature.

MR. C. B. CAMERON: I see you recommend a return rule day. Is there a duplication there? Federal rules do not have a return date.

JUDGE ETHRIDGE: They are required to be filed within twenty days. It would have to be modified if the Bar thought it was an advantage. I will explain: in many cases it is not convenient to get a certiorari to go to a certain judge in the district where he lives which may be remote, and to grant an appeal, we have a statute where the sheriff can take an appeal and approve a bond and if this is carried out it would enable the clerk to grant a certiorari to the Circuit Court and fix the bond and approve the bond, eliminating the hunting up of the judge to get it from him.

MR. CUNNINGHAM: The Federal rules give us a rule day; you have to answer in twenty days. What do you want with a rule day if you adopt that Federal rule?

JUDGE ETHRIDGE: My idea would be to have some modification if the scheme as recommended be put in.

MR. CUNNINGHAM: Should we let the contradiction go in?

JUDGE ETHRIDGE: The report is for the study of the rules and if adopted to put in such form as to make them conform to the State group. Here is our idea. You are more likely to forget if the business is not set on a rule day, and all business could be answered on a rule day and you would not have one case one day and another the day after, but that would have to be worked out.

JUDGE REILY: In addressing myself to that particular point, I could say in answer to Mr. Cunningham, I see no conflict in the two provisions, the return day or the answer day. Of course the return day is the day the writs are returned in the Chancery Court; practically it is the date the answer is due. The answer is due in the rules it is true. We have an answer day under the time in which to answer under the Federal Rules of Civil Procedure. If we add to that a rule day on which the Court will be in session, sort of a special or limited term to consider matters which may

arise, it does not make any difference when the plea is filed or answered or the memorial is filed, all are subject to call on the rule day. It seems to me the plan contemplated by the Committee is that the judge will be there on a particular day and they are all prime matters that should be disposed of before the term convenes, but there is one serious objection and, that is, our law makes no provision for payment of travel expenses or per diem for certain judges. I believe any scheme contemplating that should embrace a plan whereby the judge will have his expenses paid. I do not believe that conflicts with the constitutional limitations because it would not be an increase in salary.

JUDGE ETHRIDGE: Rule days would be very much as in Chancery Court. The clerk can do certain things. Of course that is subject to the approval of the judge. At the same time, if you have a day fixed, a lawyer will get all of his business, say on the second Monday, which needs attention on that day, instead of having it every day. But we did not undertake to draft a bill to cover it. We are making recommendations seeking to serve the convenience of the people in the Bar about these specific times under which a plea can be filed and pro confesso judgment can be had.

MR. BUTLER: Are you proposing to make the writs in both the Circuit Court and the Chancery Court at a certain number of stated days after the service is written?

JUDGE ETHRIDGE: We are recommending rules like the Chancery Court rules.

MR. BUTLER: That is the point I want to make. Chancery law, insofar as it applies to my cases, is all antiquated and does not fit at all and I do not know if the same situation stands in reference to the Circuit Court. We have terms of Court that last for ninety days. If we make a writ returnable the next rule day of the next term it means you have to wait; there is no rule day during the term. You have no rule day for ninety days and you have to wait then for the next term of the Court frequently in my district to have your writ returnable. That is a matter that can probably be worked out but here is the trouble I see; my recommendation is that they do not get out the first issue of the Bar Journal until the first of the year. It takes them that long to organize it and set it up and get contracts from the printer, so you would not have time to circulate this printed document among the lawyers and have these meetings in time for the next meeting of the Legislature. I favor the printing of these recommendations in the minutes of the proceedings of the Bar Association but I do not think we will have time to have these meetings after they are printed and get any opinion so it can go before the Legislature with anything like a fair recommendation or fair consensus of opinion of the lawyers in the State.

JUDGE ETHRIDGE: The last three years the proceedings appeared in the September issue.

MR. W. N. ETHRIDGE, JR.: May I interrupt to say the proceedings will be published either in September or early October.

MR. CAMERON: The motion you made for reception of the recommendation of this Committee carries with it the endorsement or approval of the present membership in this conference or convention. Is it an endorsement of the revolutionary recommendations?

JUDGE ETHRIDGE: It will be published and district meetings will be held over the State either by the in-coming President of the Bar Association or by somebody designated by him to assemble the meeting and discuss the rules and make recommendations with reference to them; then, if they are sufficiently recommended to have them presented to the Legislature by some committee appointed for this purpose. You have seventeen Circuit Court districts. If the majority of those districts favor the adoption of these particular rules and then they are tabulated and prepared in the form to make them appropriate to present to the Legislature. Of course, the President will appoint somebody, after the meetings are held, to draw up a bill carrying out the recommendations made.

MR. CAMERON: May I make this observation with your permission? I did not quite understand how far-reaching the motion would be. On account of travel limitations our attendance is small. There is a small group of the lawyers of this State here and I would not want, and I am sure you would not, or the other members, to go out in the public press or the Law Journal to make this appear like the meeting's recommendations; I would like to move that an amendment be made to the effect that it is in no wise understood that the recommendations are binding upon this conference until the final determination of this issue so that there may not be any misunderstanding. I may be the fellow who gave the original inspiration, but I think we are pulling up too many stakes in regard to the amendment and the Legislature. I may be "all wet" on that, but I do want to suggest that we retain the right to suggest this later on.

JUDGE REILY: Isn't it true that your motion is only to have this resolution published for the purpose of study without in any way intimating that it is endorsed or approved by members of this body?

JUDGE ETHRIDGE: The Association itself is free to reject every bit of it after it is published. We did not think the Association here would take up these lengthy rules and be prepared to vote on them, but if we could get them published in the Journal, the part of the rules the Committee thought could be adopted, it would go before the Bar and any member of the Bar could make any suggestions for amending the law before it

is presented to the Legislature. Every lawyer would be free to go before the Legislature and present his views, but we wanted to get these things before the Bar where they could study them and make up their minds, not taking all the rules; there are others that might be adopted later or might not.

In Federal rules we recommend the establishment of rule days for service of proxy. If the term of Court existed, that would sound like the Chancery Court, for the purpose of requiring an answer to pleadings, whatever the statute would be is drafted on it. We had the idea that it would serve the convenience of the body and propose justice in preparation for the causes of trial to have days on which the pleadings would be scheduled by the Circuit Court Judge or agreement of the party to get everything ready for trial, if there is going to be a trial, at the term of Court instead of hearing pleadings and demurrers. We omitted that rule. Federal Court has dispensed with rules and demurrers.

VOICE: I bet in a good many places, we have been practicing under these rules about six years, and I have never seen it come up that it was not side-tracked every time I have seen it come up, or in this Association it has been side-tracked for further study. When will we get time to act on it? We will have another Legislature before the Bar meets again.

JUDGE ETHRIDGE: The seventeen districts by the members of the Bar in each district and of the statutes before them before the meeting is called and if they voted then it would be put before the Legislature. We do not know what the Legislature will do about it.

JUDGE REILY: He says these Federal rules have been side-tracked through the years. I have been one of the chief side-trackers. I have done as much to side-track and delay them as anybody. If this thing is good, we want it. We will never know whether it is good or not until we study it. It is our duty to adopt that procedure which is calculated to administer justice in the Courts of this State and the man who has studied this question and presented the report stands at the top of the profession from the standpoint of being a safe, careful, sound lawyer, (Applause) and he had made a motion that this be printed—I understand you have made that motion—and I now beg to second that motion.

PRESIDENT ENGLE: The Chair understands the motion to be in substance that this report be published in the Law Journal for information of the Bar without prejudice to the right of any member of the Bar to take any action at the district meetings he may care to take. This is stated correctly, I believe. You have heard the motion and it has been seconded. I have not raised any question at this time about the side discussions which would be more appropriate in the district meeting rather than in this meet-

ing at this time, but if there is any discussion on the motion as understood and pertinent to the motion itself, I would be glad to hear it.

MR. C. B. CAMERON: I respectfully submit even the Chair's construction has not informed us as to whether our action is an approval of the recommendations of the Committee. I think that is what we are driving at. If we are going to vote on the motion, we ought to be specific as to its extent in order that those of us who attend the district meeting and arise and make suggestions will be informed. Questions will be asked from some source—"You were in the Convention and this came up."—I have in mind that the Bar of the State be fully advised that the action of the conference is not a recommendation for the adoption of the Committee's report, nor is it denial or rejection of it; that matter is left entirely open without the endorsement of the group.

MR. ALEX CURRIE: That is the point I am interested in; so far as I am concerned I appreciate the study of it but I would not want to be understood as either approving or disapproving of it at this time.

VOICE: I second the motion Mr. Cameron made to amend this motion.

PRESIDENT ENGLE: There is a motion made by Mr. Cameron to add at the end of the motion as made by Judge Ethridge in substance the following: The adoption of this resolution, however, is not to be understood as committing this Association or any member thereof to support the resolution on the rules or as approval of the rules. All in favor of that amendment will say aye. (Unanimous) The motion occurs on the original motion. All in favor of the original motion say aye. (Unanimous).

EXHIBIT TO REPORT OF STUDY COMMITTEE

"Rule 5. Service and Filing of Pleadings and Other Papers.

(a) SERVICE: WHEN REQUIRED. Every order required by its terms to be served, every pleading subsequent to the original complaint unless the court otherwise orders because of numerous defendants, every written motion other than one which may be heard *ex parte,* and every written notice, appearance, demand, offer of judgment, designation of record on appeal, and similar paper shall be served upon each of the parties affected thereby, but no service need be made on parties in default for failure to appear except that pleadings asserting new or additional claims for relief against them shall be served upon them.

(b) SAME: HOW MADE. Whenever under these rules service is required or permitted to be made upon a party represented by an attorney the service shall be made upon the attorney unless service upon the party himself is ordered by the court. Service upon the attorney or upon a party shall be made by delivering a copy to him or by mailing it to him at his last known address, or, if no address is known, by leaving it with the clerk of the court. Delivery of a copy within this rule means: handing it to the attorney or to the party; or leaving it at his office with his clerk or other person in charge thereof; or, if there is no one in charge, leaving it in a conspicuous place therein; or, if

the office is closed or the person to be served has no office, leaving it at his dwelling house or usual place of abode with some person of suitable age and discretion then residing therein. Service by mail is complete upon mailing.

(c) SAME: NUMEROUS DEFENDANTS. In any action in which there are unusually large numbers of defendants, the court, upon motion or of its own initiative, may order that service of the pleadings of the defendants and replies thereto need not be made as between the defendants and that any cross-claim, counterclaim, or matter constituting an avoidance or affirmative defense contained therein shall be deemed to be denied or avoided by all other parties and that the filing of any such pleading and service thereof upon the plaintiff constitutes due notice of it to the parties. A copy of every such order shall be served upon the parties in such manner and form as the court directs.

(d) FILING. All papers after the complaint required to be served upon a party shall be filed with the court either before service or within a reasonable time thereafter.

RULE 7. Pleadings Allowed; Form of Motions.

(a) PLEADINGS. There shall be a complaint and an answer; and there shall be a reply, if the answer contains a counterclaim denominated as such; an answer to a cross-claim, if the answer contains a cross-claim; a third-party complaint, if leave is given under Rule 14 to summon a person who was not an original party; and there shall be a third-party answer, if a third-party complaint is served. No other pleading shall be allowed, except that the court may order a reply to an answer or a third-party answer.

(b) MOTIONS AND OTHER PAPERS.

(1) An application to the court for an order shall be by motion which, unless made during a hearing or trial, shall be made in writing, shall state with particularity the grounds therefor, and shall set forth the relief or order sought. The requirement of writing is fulfilled if the motion is stated in a written notice of the hearing of the motion.

(2) The rules applicable to captions, signing, and other matters of form of pleadings apply to all motions and other papers provided for by these rules.

(c) DEMURRERS, PLEAS, ETC., ABOLISHED. Demurrers, pleas, and exceptions for insufficiency of a pleading shall not be used.

RULE 8. GENERAL RULES OF PLEADING.

(a) CLAIMS FOR RELIEF. A pleading which sets forth a claim for relief, whether an original claim, counterclaim, cross-claim, or third—party claim, shall contain (1) a short and plain statement of the grounds upon which the court's jurisdiction depends, unless the court already has jurisdiction and the claim needs no new grounds of jurisdiction to support it, (2) a short and plain statement of the claim showing that the pleader is entitled to relief, and (3) a demand for judgment for the relief to which he deems himself entitled. Relief in the alternative or of several different types may be demanded.

(b) DEFENSES: FORM OF DENIALS. A party shall state in short and plain terms his defenses to each claim asserted and shall admit or deny the averments upon which the adverse party relies. If he is without knowledge or information sufficient to form a belief as to the truth of an averment, he shall so state and this has the effect of a denial. Denials shall fairly meet the substance of the averments denied. When a pleader intends in good faith to deny only a part or a qualification of an averment, he shall specify so much of it as is true and material and shall deny only the remainder. Unless the pleader intends in good faith to controvert all the averments of the preceding pleading,

he may make his denials as specific denials of designated averments or paragraphs, or he may generally deny all the averments except such designated averments or paragraphs as he expressly admits; but, when he does so intend to controvert all its averments, including averments of the grounds upon which the court's jurisdiction depends.

(c) AFFIRMATIVE DEFENSES. In pleading to a preceding pleading, a party shall set forth affirmatively accord and satisfaction, arbitration and award, assumption of risk, contributory negligence, discharge in bankruptcy, duress, estoppel, failure of consideration, fraud, illegality, injury by fellow servant, laches, license, payment, release, res judicata, statute of frauds, statute of limitations, waiver, and any other matter constituting an avoidance or affirmative defense. When a party has mistakenly designated a defense as a counterclaim or a counterclaim as a defense, the court on terms, if justice so requires, shall treat the pleading as if there had been a proper designation.

(d) EFFECT OF FAILURE TO DENY. Averments in a pleading to which a responsive pleading is required, other than those as to the amount of damage, are admitted when not denied in the responsive pleading is required or permitted shall be taken as denied or avoided.

(e) PLEADING TO BE CONCISE AND DIRECT: CONSISTENCY.

(1) Each averment of a pleading shall be simple, concise, and direct. No technical forms of pleading or motions are required.

(2) A party may set forth two or more statements of a claim of defense alternatively or hypothetically, either in one count or defense or in separate counts or defenses. When two or more statements are made in the alternative and one of them if made independently would be sufficient, the pleading is not made insufficient by the insufficiency of one or more of the alternative statements. A party may also state as many separate claims or defenses as he has regardless of consistency and whether based on legal or on equitable grounds or on both.

(f) CONSTRUCTION OF PLEADINGS. All pleadings shall be so construed as to do substantial justice.

RULE 9. PLEADING SPECIAL MATTERS.

(a) CAPACITY. It is not necessary to aver the capacity of a party to sue or be sued or the authority of a party to sue or be sued in a representative capacity or the legal existence of an organized association of persons that is made a party, except to the extent required to show the jurisdiction of the court. When a party desires to raise an issue as to the legal existence of any party or the capacity of any party to sue or be sued or the authority of a party to sue or be sued in a representative capacity, he shall do so by specific negative averment, which shall include such supporting particulars as are peculiarly within the pleader's knowledge.

(b) FRAUD, MISTAKE, CONDITION OF THE MIND. In all averments of fraud or mistake, the circumstances constituting fraud or mistake shall be stated with particularity. Malice, intent, knowledge, and other condition of mind of a person may be averred generally.

(c) CONDITIONS PRECEDENT. In pleading the performance or occurrence of conditions precedent, it is sufficient to aver generally that all conditions precedent have been performed or have occurred. A denial of performance or occurrence shall be made specifically and with particularity.

(d) OFFICIAL DOCUMENT OR ACT. In pleading an official document or official act it is sufficient to aver that the document was issued or the act done in compliance with law.

(e) JUDGMENT. In pleading a judgment or decision of a domestic or foreign court, judicial or quasi-judicial tribunal, or of a board or officer, it is sufficient to aver the judgment or decision without setting forth matter showing jurisdiction to render it.

(f) TIME AND PLACE. For the purpose of testing the sufficiency of a pleading, averments of time and place are material and shall be considered like all other averments of material matter.

(g) SPECIAL DAMAGE. When items of special damage are claimed, they shall be specifically stated.

RULE 12. DEFENSES AND OBJECTIONS—When and How Presented—By Pleading or Motion—Motion for Judgment on Pleadings.

(a) WHEN PRESENTED. A defendant shall serve his answer within 20 days after the service of the summons and complaint upon him, unless the court directs otherwise. A party served with a pleading stating a cross-claim against him shall serve an answer thereto within 20 days after the service upon him. The plaintiff shall serve his reply to a counterclaim in the answer within 20 days after service of the answer, or, if a reply is ordered by the court, within 20 days after service of the order, unless the order otherwise directs. The United States or an officer or agency thereof shall serve an answer to the complaint or to a cross-claim, or a reply to a counterclaim, within 60 days after the service upon the United States attorney of the pleading in which the claim is asserted. The service of any motion provided for in this rule alters the time fixed by these rules for serving any required responsive pleading as follows, unless a different time is fixed by order of the court: (1) if the court denies the motion or postpones its disposition until the trial on the merits, the responsive pleading may be served within 10 days after notice of the court's action; (2) if the court grants a motion for a more definite statement or for a bill of particulars, the responsive pleading may be served within ten days after the service of the more definite statement or bill or particulars. In either case the time for service of the responsive pleading shall be not less than remains of the time which would have been allowed under these rules if the motion had not been made.

(b) HOW PRESENTED. Every defense, in law or fact, to a claim for relief in any pleading, whether a claim, counterclaim, cross-claim, or third-party claim, shall be asserted in the responsive pleading thereto if one is required, except that the following defenses may at the option of the pleader be made by motion. (1) Lack of jurisdiction over the subject matter, (2) lack of jurisdiction over the person, (3) improper venue, (4) insufficiency of process, (5) insufficiency of service of process, (6) failure to state a claim upon which relief can be granted. A motion making any of these defenses shall be made before pleading if a further pleading is permitted. No defense or objection is waived by being joined with one or more other defenses or objections in a responsive pleading or motion. If a pleading sets forth a claim for relief to which the adverse party is not required to serve a responsive pleading, he may assert at the trial any defense in law or fact to that claim for relief.

(c) MOTION FOR JUDGMENT ON THE PLEADINGS. After the pleadings are closed but within such time as not to delay the trial, any party may move for judgment on the pleadings.

(d) PRELIMINARY HEARINGS. The defenses specifically enumerated (1)-(6) in subdivision (b) of this rule, whether made in a pleading or by motion, and the motion for judgment mentioned in subdivision (c) of this rule, shall be heard and determined before trial on application of any party, unless the court orders that the hearing and determination thereof be deferred until the trial.

(e) MOTION FOR MORE DEFINITE STATEMENT OR FOR BILL OF PARTICULARS. Before responding to a pleading or, if no responsive pleading is permitted by these rules, within 20 days after the service of the pleading upon him, a party may move for a more definite statement or for a bill of particulars of any matter which is not averred with sufficient definiteness or particularity to enable him properly to prepare his responsive pleading or to prepare for trial. The motion shall point out the defects complained of and the details desired. If the motion is granted and the order of the court is not obeyed within 10 days after notice of the order or within such other time as the court may fix, the court may strike the pleading to which the motion was directed or make such order as it deems just. A bill of particulars becomes a part of the pleading which it supplements.

(f) MOTION TO STRIKE. Upon motion made by a party before responding to a pleading or, if no responsive pleading is permitted by these rules, upon motion made by a party within 20 days after the service of the pleading upon him or upon the court's own initiative at any time, the court may order any redundant, immaterial, impertinent, or scandalous matter stricken from any pleading.

(g) CONSOLIDATION OF MOTIONS. A party who makes a motion under this rule may join with it the other motions herein provided for and then available to him. If a party makes a motion under this rule and does not include therein all defenses and objections then available to him which this rule permits to be raised by motion, he shall not thereafter make a motion based on any of the defenses or objections so omitted, except that prior to making any other motions under this rule he may make a motion in which are joined all the defenses numbered (1) to (5) in subdivision (b) of this rule which he cares to assert.

(h) WAIVER OF DEFENSES. A party waives all defenses and objections which he does not present either by motion as hereinbefore provided or, if he has made no motion, in his answer or reply, except (1) that the defense of failure to state a claim upon which relief can be granted, and the objection of failure to state a legal defense to a claim may also be made by a later pleading, if one is permitted, or by motion for judgment on the pleadings or at the trial on the merits, and except (2) that, whenever it appears by suggestion of the parties or otherwise that the court lacks jurisdiction of the subject matter, the court shall dismiss the action. The objection or defense, if made at the trial, shall then be disposed of as provided in Rule 15 (b) in the light of any evidence that may have been received.

RULE 14. THIRD-PARTY PRACTICE.

(a) When Defendant May Bring in Third Party. Before the service of his answer a defendant may move ex parte or, after the service of his answer, on notice to the plaintiff, for leave as a third-party plaintiff to serve a summons and complaint upon a person not a party to the action who is or may be liable to him or to the plaintiff for all or part of the plaintiff's claim against him. If the motion is granted and the summons and complaint are served, the person so served, hereinafter called the third-party defendant, shall make his defenses as provided in Rule 12 and his counterclaims and cross-claims against the plaintiff, the third-party plaintiff, or any other party. The third-party defendant may assert any defenses which the third-party plaintiff has to the plaintiff's claim. The third-party defendant is bound by the adjudication of the third-party plaintiff's liability to the plaintiff, as well as of his own to the plaintiff or to the third-party plaintiff. The plaintiff may amend his pleadings to assert against the third-party defendant any claim which the plaintiff might have asserted against the third-party defendant had he been joined originally as a defendant. A third-party defendant may proceed under this rule against any person not a party to the action who is or may be liable to him or to the third-party plain-

tiff for all or part of the claim made in the action against the third-party defendant.

(b) WHEN PLAINTIFF MAY BRING IN THIRD PARTY. When a counterclaim is asserted against a plaintiff, he may cause a third party to be brought in under circumstances which under this rule would entitle a defendant to do so.

RULE 15. AMENDED AND SUPPLEMENTAL PLEADINGS.

(a) AMENDMENTS. A party may amend his pleading once as a matter of course at any time before a responsive pleading is served or, if the pleading is one to which no responsive pleading is permitted and the action has not been placed upon the trial calendar, he may so amend it at any time within 20 days after it is served. Otherwise a party may amend his pleading only by leave of court or by written consent of the adverse party; and leave shall be freely given when justice so requires. A party shall plead in response to an amended pleading within the time remaining for response to the original pleading or within 10 days after service of the amended pleading, whichever period may be the longer, unless the court otherwise orders.

(b) AMENDMENTS TO CONFORM TO THE EVIDENCE. When issues not raised by the pleadings are tried by express or implied consent of the parties, they shall be treated in all respects as if they had been raised in the pleadings. Such amendment of the pleadings as may be necessary to cause them to conform to the evidence and to raise these issues may be made upon motion of any party at any time, even after judgment; but failure so to amend does not affect the result of the trial of these issues. If evidence is objected to at the trial on the ground that it is not within the issues made by the pleadings, the court may allow the pleadings to be amended and shall do so freely when the presentation of the merits of the action will be subserved thereby and the objecting party fails to satisfy the court that the admission of such evidence would prejudice him in maintaining his action or defense upon the merits. The court may grant a continuance to enable the objecting party to meet such evidence.

(c) RELATION BACK OF AMENDMENTS. Whenever the claim or defense asserted in the amended pleading arose out of the conduct, transaction, or occurrence set forth or attempted to be set forth in the original pleading, the amendment relates back to the date of the original pleading.

(d) SUPPLEMENTAL PLEADINGS. Upon motion of a party the court may, upon reasonable notice and upon such terms as are just, permit him to serve a supplemental pleading setting forth transactions or occurrences or events which have happened since the date of the pleading sought to be supplemented. If the court deems it advisable that the adverse party plead thereto, it shall so order, specifying the time therefor.

RULE 26. DEPOSITIONS PENDING ACTION.

(a) WHEN DEPOSITIONS MAY BE TAKEN. By leave of court after jurisdiction has been obtained over any defendant or over property which is the subject of the action or without such leave after an answer has been served, the testimony of any person whether a party or not, may be taken at the instance of any party by deposition upon oral examination or written interrogatories for the purpose of discovery or for use as evidence in the action or for both purposes. The attendance of witnesses may be compelled by the use of subpoena. Depositions shall be taken only in accordance with these rules. The deposition of a person confined in prison may be taken only by leave of court on such terms as the court prescribes.

(b) SCOPE OF EXAMINATION. Unless otherwise ordered by the court, the deponent may be examined regarding any matter, not privileged, which is relevant to the subject matter involved in the pending action, whether relating to the claim or defense of the examining party or to the claim or defense of any other party, including the existence, description, nature, custody, condition, and location of any books, documents, or other tangible things and the identity and location of persons having knowledge of relevant facts.

(c) EXAMINATION AND CROSS-EXAMINATION. Examination and cross-examination of deponents may proceed as permitted at the trial under the provisions of Rule 43(b).

(d) USE OF DEPOSITIONS. At the trial or upon the hearing of a motion or an interlocutory proceeding, any part or all of a deposition, so far as admissible under the rules of evidence, may be used against any party who was present or represented at the taking of the deposition or who had due notice thereof, in accordance with any one of the following provisions:

(1) Any deposition may be used by any party for the purpose of contradicting or impeaching the testimony of deponent as a witness.

(2) The deposition of a party or of any one who at the time of taking deposition was an officer, director, or managing agent of a public or private corporation, partnership, or association which is a party may be used by an adverse party for any purpose.

(3) The deposition of a witness, whether or not a party, may be used by any party for any purpose if the court finds: 1, that the witness is dead; or 2, that the witness is at a greater distance than 100 miles from the place of trial or hearing, or is out of the United States, unless it appear that the absence of the witness was procured by the party offering the deposition; or 3, that the witness is unable to attend or testify because of age, sickness, infirmity, or imprisonment; or 4, that the party offering the deposition has been unable to procure the attendance of the witness by subpoena; or 5, upon application and notice, that such exceptional circumstances exist as to make it desirable, in the interest of justice and with due regard to the importance of presenting the testimony of witnesses orally in open court, to allow the deposition to be used.

(4) If only part of a deposition is offered in evidence by a party, an adverse party may require him to introduce all of it which is relevant to the part introduced, and any party may introduce any other parts.

Substitution of parties does not affect the right to use depositions previously taken; and, when an action in any court of the United States or of any state has been dismissed and another action involving the same subject matter is afterward brought between the same parties or their representatives or successors in interest, all depositions lawfully taken and duly filed in the former action may be used in the latter as if originally taken therefor.

(e) OBJECTIONS TO ADMISSIBILITY. Subject to the provisions of Rule 32 (c), objection may be made at the trial or hearing to receiving in evidence any deposition or part thereof for any reason which would require the exclusion of the evidence if the witness were then present and testifying.

(f) EFFECT OF TAKING OR USING DEPOSITIONS. A party shall not be deemed to make a person his own witness for any purpose by taking his deposition. The introduction in evidence of the deposition or any part thereof for any purpose other than that of contradicting or impeaching the deponent makes the deponent the witness of the party introducing the deposition, but this shall not apply to the use by an adverse party of a deposition as described in paragraph (2) of subdivision (d) of this rule. At the trial or hearing any party

may rebut any relevant evidence contained in a deposition whether introduced by him or by any other party.

RULE 27. Depositions Before Action or Pending Appeal.

(a) BEFORE ACTION.

(1) Petition. A person who desires to perpetuate his own testimony or that of another person regarding any matter that may be cognizable in any court of the United States may file a verified petition in the district court of the United States in the district of the residence of any expected adverse party. The petition shall be entitled in the name of the petitioner and shall show: 1, that the petitioner expects to be a party to an action cognizable in a court of the United States, but is presently unable to bring it or cause it to be brought, 2, the subject matter of the expected action and his interest therein, 3, the facts which he desires to establish by the proposed testimony and his reasons for desiring to perpetuate it, 4, the names or a description of the persons he expects to elicit from each, and shall ask for an order authorizing the petitioner to take the depositions of the persons to be examined named in the petition, for the purpose of perpetuating their testimony.

(2) Notice and Service. The petitioner shall thereafter serve a notice upon each person named in the petition as an expected adverse party, together with a copy of the petition, stating that the petitioner will apply to the court, at a time and place named therein, for the order described in the petition. At least 20 days before the date of hearing the notice shall be served either within or without the district or state in the manner provided in Rule 4 (d) for service of summons; but if such service can not with due diligence be made upon any expected adverse party named in the petition, the court may make such order as is just for service by publication or otherwise, and shall appoint, for persons not served in the manner provided in Rule 4 (d), an attorney who shall represent them, and, in case they are not otherwise represented, shall cross-examine the deponent.

(3) Order and Examination. If the court is satisfied that the perpetuation of the testimony may prevent a failure or delay of justice, it shall make an order designating or describing the persons whose depositions may be taken and specifying the subject matter of the examination and whether the depositions shall be taken upon oral examination or written interrogatories. The depositions may then be taken in accordance with these rules. For the purpose of applying these rules to depositions for perpetuating testimony, each reference therein to the court in which the action is pending shall be deemed to refer to the court in which the petition for such deposition was filed.

(b) PENDING APPEAL. If an appeal has been taken from a judgment of a district court or before the taking of an appeal if the time therefor has not expired, the district court in which the judgment was rendered may allow the taking of the depositions of witnesses to perpetuate their testimony for use in the event of further proceedings in the district court. In such case the party who desires to perpetuate the testimony may make a motion in the district court for leave to take the depositions, upon the same notice and service thereof as if the action was pending in the district court. The motion shall show (1) the names and addresses of the persons to be examined and the substance of the testimony which he expects to elicit from each; (2) the reasons for perpetuating their testimony. If the court finds that the perpetuation of the testimony is proper to avoid a failure or delay of justice, it may make an order allowing the depositions to be taken, and thereupon the depositions may be taken and used in the same manner and under the same conditions as are prescribed in these rules for depositions taken in actions pending in the district court.

(c) PERPETUATION BY ACTION. This rule does not limit the power of a court to entertain an action to perpetuate testimony.

RULE 28. PERSONS BEFORE WHOM DEPOSITIONS MAY BE TAKEN.

(a) WITHIN THE UNITED STATES. Within the United States or within a territory or insular possession subject to the dominion of the United States, depositions shall be taken before an officer authorized to administer oaths by the laws of the United States or of the place where the examination is held.

(b) IN FOREIGN COUNTRIES. In a foreign state or country depositions shall be taken (1) on notice before a secretary of embassy or legation, consul general, consul, vice consul, or consular agent of the United States, or (2) before such person or officer as may be appointed by commission or under letters rogatory. A commission or letters rogatory shall be issued only when necessary or convenient, on application and notice, and on such terms and with such directions as are just and appropriate. Officers may be designated in notices or commissions either by name or descriptive title and letters rogatory may be addressed "To the Appropriate Judicial Authority in (here name the country)".

(c) DISQUALIFICATION FOR INTEREST. No deposition shall be taken before a person who is a relative or employee or attorney or counsel of any of the parties, or is a relative or employee of such attorney or counsel, or is financially interested in the action.

RULE 29. STIPULATIONS REGARDING THE TAKING OF DEPOSITIONS. If the parties so stipulate in writing, depositions may be taken before any person, at any time or place, upon any notice, and in any manner and when so taken may be used like other depositions.

RULE 30. DEPOSITIONS UPON ORAL EXAMINATION.

(a) NOTICE OF EXAMINATION: TIME AND PLACE. A party desiring to take the deposition of any person upon oral examination shall give reasonable notice in writing to every other party to the action. The notice shall state the time and place for taking the deposition and the name and address of each person to be examined, if known, and, if the name is not known, a general description sufficient to identify him or the particular class or group to which he belongs. On motion of any party upon whom the notice is served, the court may for cause shown enlarge or shorten the time.

(b) ORDERS FOR THE PROTECTION OF PARTIES AND DEPONENTS. After notice is served for taking a deposition by oral examination, upon motion seasonably made by any party or by the person to be examined and upon notice and for good cause shown, the court in which the action is pending may make an order that the deposition shall not be taken, or that it may be taken only at some designated place other than that stated in the notice, or that it may be taken only on written interrogatories, or that certain matters shall not be inquired into, or that the scope of the examination shall be limited to certain matters, or that the examination shall be held with no one present except the parties to the action and their officers or counsel, or that after being sealed the deposition shall be opened only by order of the court, or that secret processes, developments, or research need not be disclosed, or that the parties shall simultaneously file specified documents or information enclosed in sealed envelopes to be opened as directed by the court; or the court may make any other order which justice requires to protect the party or witness from annoyance, embarrassment, or oppression.

(c) RECORD OF EXAMINATION: OATH: OBJECTIONS. The officer before whom the deposition is to be taken shall put the witness on oath and shall personally, or by some one acting under his direction and in his presence,

record the testimony of the witness. The testimony shall be taken stenographically and transcribed unless the parties agree otherwise. All objections made at the time of the examination to the qualifications of the officer taking the deposition, or to the manner of taking it, or to the evidence presented, or to the conduct of any party, and any other objection to the proceedings, shall be noted by the officer upon the deposition. Evidence objected to shall be taken subject to the objections. In lieu of participating in the oral examination, parties served with notice of taking a deposition may transmit written interrogatories to the officer, who shall propound them to the witness and record the answers verbatim.

(d) MOTION TO TERMINATE OR LIMIT EXAMINATION. At any time during the taking of the deposition, on action of any party or of the deponent and upon a showing that the examination is being conducted in bad faith or in any such manner as unreasonably to annoy, embarrass, or oppress the deponent or party, the court in which the action is pending or the court in the district where the deposition is being taken may order the officer conducting the examination to cease forthwith from taking the deposition, or may limit the scope and manner of the taking of the deposition as provided in subdivision (b). If the order made terminates the examination, it shall be resumed thereafter only upon the order of the court in which the action is pending. Upon demand of the objecting party or deponent, the taking of the deposition shall be suspended for the time necessary to make a motion for an order. In granting or refusing such order the court may impose upon either party or upon the witness the requirement to pay such costs or expenses as the court may deem reasonable.

(e) SUBMISSION TO WITNESS: CHANGES: SIGNING. When the testimony is fully transcribed the deposition shall be submitted to the witness for examination and shall be read to or by him, unless such examination and reading are waived by the witness and by the parties. Any changes in form or substance which the witness desires to make shall be entered upon the deposition by the officer with a statement of the reasons given by the witness for making them. The deposition shall then be signed by the witness, unless the parties by stipulation waive the signing or the witness is ill or cannot be found or refuses to sign. If the deposition is not signed by the witness, the officer shall sign it and state on the record the fact of the waiver or of the illness or absence of the witness or the fact of the refusal to sign together with the reason, if any, given therefore; and the deposition may then be used as fully as though signed, unless on a motion to suppress under Rule 32 (d) the court holds that the reasons given for the refusal to sign require rejection of the deposition in whole or in part.

(f) CERTIFICATION AND FILING BY OFFICER: COPIES: NOTICE OF FILING.

(1) The officer shall certify on the deposition that the witness was duly sworn by him and that the deposition is a true record of the testimony given by the witness. He shall then securely seal the deposition in an envelope indorsed with the title of the action and marked "Deposition of (here insert name of witness)" and shall promptly file it with the court in which the action is pending or send it by registered mail to the clerk thereof for filing.

(2) Upon payment of reasonable charges therefor, the officer shall furnish a copy of the deposition to any party or to the deponent.

(3) The party taking the deposition shall give prompt notice of its filing to all other parties.

(g) FAILURE TO ATTEND OR TO SERVE SUBPOENA: EXPENSES.

(1) If the party giving the notice of the taking of a deposition fails to

attend and proceed therewith and another party attends in person or by attorney pursuant to the notice, the court may order the party giving the notice to pay to such other party the amount of the reasonable expenses incurred by him and his attorney in so attending, including reasonable attorney's fees.

(2) If the party giving the notice of the taking of a deposition of a witness fails to serve a subpoena upon him and the witness because of such failure does not attend, and if another party attends in person or by attorney because he expects the deposition of that witness to be taken, the court may order the party giving the notice to pay to such other party the amount of the reasonable expenses incurred by him and his attorney in so attending, including reasonable attorney's fees.

RULE 31. DEPOSITIONS OF WITNESSES UPON WRITTEN INTERROGATORIES.

(a) SERVING INTERROGATORIES: NOTICE. A party desiring to take the deposition of any person upon written interrogatories shall serve them upon every other party with a notice stating the name and address of the person who is to answer them and the descriptive title and address of the officer before whom the deposition is to be taken. Within 10 days thereafter a party so served may serve cross interrogatories upon the party proposing to take the deposition. Within 5 days thereafter the latter may serve redirect interrogatories upon a party who has served cross interrogatories. With 3 days after being served with redirect interrogatories, a party may serve recross interrogatories upon the party proposing to take the deposition.

(b) OFFICER TO TAKE RESPONSES AND PREPARE RECORD. A copy of the notice and copies of all interrogatories served shall be delivered by the party taking the deposition to the officer designated in the notice, who shall proceed promptly, in the manner provided by Rule 30 (c), (e), and (f), to take the testimony of the witness in response to the interrogatories and to prepare, certify, and file or mail the deposition, attaching thereto the copy of the notice and the interrogatories received by him.

(c) NOTICE OF FILING. When the deposition is filed the party taking it shall promptly give notice thereof to all other parties.

(d) ORDERS FOR THE PROTECTION OF PARTIES AND DEPONENTS. After the service of interrogatories and prior to the taking of the testimony of the deponent, the court in which the action is pending, on motion promptly made by a party or a deponent, upon notice and good cause shown, may make any order specified in Rule 30 which is appropriate and just or an order that the deposition shall not be taken before the officer designated in the notice or that it shall not be taken except upon oral examination.

RULE 32. EFFECT OF ERRORS AND IRREGULARITIES IN DEPOSITIONS.

(a) AS TO NOTICE. All errors and irregularities in the notice for taking a deposition are waived unless written objection is promptly served upon the party giving the notice.

(b) AS TO DISQUALIFICATION OF OFFICER. Objection to taking a deposition because of disqualification of the officer before whom it is to be taken is waived unless made before the taking of the deposition begins or as soon thereafter as the disqualification becomes known or could be discovered with reasonable diligence.

(c) AS TO TAKING OF DEPOSITION.

(1) Objections to the competency of a witness or to the competency, relevancy, or materiality of testimony are not waived by failure to make

them before or during the taking of the deposition, unless the ground of the objection is one which might have been obviated or removed if presented at that time.

(2) Errors and irregularities occurring at the oral examination in the manner of taking the deposition, in the form of the questions or answers, in the oath or affirmation, or in the conduct of parties and errors of any kind which might be obviated, removed, or cured if promptly presented, are waived unless seasonable objection thereto is made at the taking of the deposition.

(3) Objections to the form of written interrogatories submitted under Rule 31 are waived unless served in writing upon the party propounding them within the time allowed for serving the succeeding cross or other interrogatories and within 3 days after service of the last interrogatories authorized.

(d) AS TO COMPLETION AND RETURN OF DEPOSITION. Errors and irregularities in the manner in which the testimony is transcribed or the deposition is prepared, signed, certified, sealed, endorsed, transmitted, filed, or otherwise dealt with by the officer under Rules 30 and 31 are waived unless a motion to suppress the deposition or some part thereof is made with reasonable promptness after such defect is, or with due diligence might have been, ascertained.

RULE 33. INTERROGATORIES TO PARTIES. Any party may serve upon any adverse party written interrogatories to be answered by the party served or, if the party served is a public or private corporation or a partnership or association, by any officer thereof competent to testify in its behalf. The interrogatories shall be answered separately and fully in writing under oath. The answers shall be signed by the person making them; and the party upon whom the interrogatories within 15 days after the delivery of the interrogatories, unless the court, on motion and notice and for good cause shown, enlarges or shortens the time. Objections to any interrogatories may be presented to the court within 10 days after service thereof, with notice as in case of a motion; and answers shall be deferred until the objections are determined, which shall be at as early a time as is practicable. No party may, without leave of court, serve more than one set of interrogatories to be answered by the same party.

RULE 34. DISCOVERY AND PRODUCTION OF DOCUMENTS AND THINGS FOR INSPECTION, COPYING, OR PHOTOGRAPHING. Upon motion of any party showing good cause therefor and upon notice to all other parties, the court in which an action is pending may (1) order any party to produce and permit the inspection and copying or photographing, by or on behalf of the moving party, of any designated documents, papers, books, accounts, letters, photographs, objects, or tangible things, not privileged which constitute or contain evidence material to any matter involved in the action, and which are in his possession, custody, or control; or (2) order any party to permit entry upon designated land or other property in his possession or control for the purpose of inspecting, measuring, surveying, or photographing the property or any designated relevant object or operation thereon. The order shall specify the time, place, and manner of making the inspection and taking the copies and photographs and may prescribe such terms and conditions as are just.

RULE 36. ADMISSION OF FACTS AND OF GENUINENESS OF DOCUMENTS.

(a) REQUEST FOR ADMISSION. At any time after the pleadings are closed, a party may serve upon any other party a written request for the admission by the latter of the genuineness of any relevant documents described in and exhibited with the request of the truth of any relevant matters of fact set forth therein. Copies of the documents shall be delivered with the request

unless copies have already been furnished. Each of the matters of which an admission is requested shall be deemed admitted unless, within a period designated in the request, not less than 10 days after service thereof or within such further time as the court may allow on motion and notice, the party to whom the request is directed serves upon the party requesting the admission a sworn statement either denying specifically the matters of which an admission is requested or setting forth in detail the reasons why he cannot truthfully either admit or deny those matters.

(b) EFFECT OF ADMISSION. Any admission made by a party pursuant to such request is for the purpose of the pending action only and neither constitutes an admission by him for any other purpose nor may be used against him in any other proceeding.

RULE 37. REFUSAL TO MAKE DISCOVERY: CONSEQUENCES.

(a) REFUSAL TO ANSWER. If a party or other deponent refuses to answer any question propounded upon oral examination, the examination shall be completed on other matters or adjourned, as the proponent of the question may prefer. Thereafter, on reasonable notice to all persons affected thereby, he may apply to the court in the district where the deposition is taken for an order compelling an answer. Upon the refusal of a deponent to answer any interrogatory submitted under Rule 31 or upon the refusal of a party to answer any interrogatory submitted under Rule 33, the proponent of the question may on like notice make like application for such an order. If the motion is granted and if the court finds that the refusal was without substantial justification the court shall require the refusing party or deponent and the pary or attorney advising the refusal or either of them to pay to the examining party the amount of the reasonable expenses incurred in obtaining the order, including reasonable attorney's fees. If the motion is denied and if the court finds that the motion was made without substantial justification, the court shall require examining party or the attorney advising the motion or both of them to pay to the refusing party or witness the amount of the reasonable expenses incurred in opposing the motion, including reasonable attorney's fees.

(b) FAILURE TO COMPLY WITH ORDER.

(1) *Contempt.* If a party or other witness refuses to be sworn or refuses to answer any question after being directed to do so by the court in the district in which the deposition is being taken, the refusal may be considered a contempt of that court.

(2) *Other Consequences.* If any party or an officer or managing agent of a party refuses to obey an order made under subdivision (a) of this rule requiring him to answer designated questions. or an order made under Rule 34 to produce any document or other thing for inspection, copying, or photographing or to permit it to be done, or to permit entry upon land or other property, or an order made under Rule 35 requiring him to submit to a physical or mental examination, the court may make such orders in regard to the refusal as are just, and among others the following:

(i) An order that the matters regarding which the questions were asked, or the character or description of the thing or land, or the contents of the paper, or the physical or mental condition of the party, or any other designated facts shall be taken to be established for the purposes of the action in accordance with the claim of the party obtaining the order;

(ii) An order refusing to allow the disobedient party to support or oppose designated claims or defenses, or prohibiting him from introducing in evidence designated documents or things or items of testimony, or from introducing evidence of physical or mental condition;

(iii) An order striking out pleadings or parts thereof, or staying further proceedings until the order is obeyed, or dismissing the action or proceeding or any part thereof, or rendering a judgment by default against the disobedient party;

(iv) In lieu of any of the foregoing orders or in addition thereto, an order directing the arrest of any party or agent of a party for disobeying any of such orders except an order to submit to a physical or mental examination.

(c) EXPENSES ON REFUSAL TO ADMIT. If a party, after being served with a request under Rule 36 to admit the genuineness of any documents or the truth of any matters of fact, serves a sworn denial thereof and if the party requesting the admissions thereafter proves the genuineness of any such document or the truth of any such matter of fact, he may apply to the court for an order requiring the other party to pay him the reasonable expenses incurred in making such proof, including reasonable attorney's fees. Unless the court finds that there were good reasons for the denial or that the admissions sought were of no substantial importance, the order shall be made.

(d) FAILURE OF PARTY TO ATTEND OR SERVE ANSWERS. If a party or an officer or managing agent of a party willfully fails to appear before the officer who is to take his deposition, after being served with a proper notice, or fails to serve answers to interrogatories submitted under Rule 33, after proper service of such interrogatories, the court on motion and notice may strike out all or any part of any pleading of that party, or dismiss the action or proceeding or any part thereof, or enter a judgment by default against that party.

(e) FAILURE TO RESPOND TO LETTERS ROGATORY. A subpoena may be issued as provided in the Act of July 3, 1926, c. 762, Sec. 1 (44 Stat. 835), U. S. C., Title 28, Sec. 711, under the circumstances and conditions therein stated.

(f) EXPENSES AGAINST UNITED STATES. Expenses and attorney's fees are not to be imposed upon the United States under this rule.

Your Committee does not insist that these rules be adopted in toto as they are now written in the Rules of Civil Procedure for the District Courts of the United States, but your Committee does think that the spirit and substance of the above named rules, if adopted as Rules of Procedure in our State Court, would make for a swifter and more adequate administration of justice.

Respectfully submitted,
Geo. H. Ethridge, Chairman
Ross R. Barnett,
Harry Bryan,
J. Knox Huff.

President Engle next presented Mr. James P. Alexander, Chief Justice of the Supreme Court of Texas, whose address follows:

Improving the Judiciary System

Judge James P. Alexander

Having been in the judiciary for a little more than a quarter of a century there is hardly anything I can talk about other than the judiciary be-

cause in my opinion it is the most important of the three great branches of our form of government. I recognize at the outset there is very little I can say about the judiciary that is not already entirely familiar to you gentlemen of the law. But your very familiarity with the courts is calculated to cause you to accept them and the benefits which they bring, as a matter of course, and cause you to overlook the important part which they perform in our society. I think it is well for us to stop occasionally and take stock of the rich heritage that we have in our judiciary.

It is especially important that we give careful consideration to our judicial system during the present national crisis. This is so because one indispensable essential to victory in such a crisis as now confronts us is a high morale on the part of our citizens, and a high morale can be expected only among those who love their country. I know of no way in which the love of our citizens for our country can be intensified more than by increasing their faith in our judicial system. This is so because the true administration of justice among its citizens is the first essential of good government, and the character of justice that a country administers among its citizens is the first test of efficiency. If the government renders true justice among its citizens, the citizens will necessarily love their country—otherwise not.

For more than one hundred and fifty years the judiciary in this country has been the sanctuary for the protection of the rights of the oppressed individual. The common citizen has learned to lean on it with confidence. To him it is as a father is to a child. When he is wrongfully oppressed there instantly arises in his mind the childish instinct to say: "I will tell the courts on you."

The chief function of the judiciary has been the protection of the individual, not only against the lawless depredations of other individuals, but also against the oppression and spoilation of the government itself. In fact, as I have grown older I have learned to discern more clearly that the real danger of oppression to the individual comes not from other individuals, but from the government itself. We need not look to ancient history for proof of this fact. The daily press is full of reports of arbitrary action and oppression on the part of Federal bureaus. If our Supreme Court had not yielded to the pleas of the executive branch, and had adhered strictly to the principle of separation of the judicial from the executive department, as provided in the Constitution, with a public trial in court of all questions of fact, we would not now be afflicted with these ills. When we look at the oppressed people of Europe it is easily discernable that most of their ills are due to the oppression of the government itself. They grow out of the lack of an independent and fearless judiciary. These people lost the right to a public trial before a fair and impartial court, and soon their rights as individuals became submerged in and sec-

ondary to that of the state, which is but a species of slavery. Nearly a century ago Daniel Webster said: "Wherever the Temple of Justice stands and so long as it is duly honored, there is a foundation for social security, general happiness, and the improvement and progress of our people." On the other hand, in no nation has liberty ever survived the destruction of an honest, independent, and fearless judiciary.

We are now in one of the most critical periods in the history of our nation. The stress of the war has necessitated the temporary suspension of many of our democratic usages, and the substitution of dictatorial policies in lieu thereof. After this war is over, there will come the inevitable "let-down," financial and otherwise. The people will become dissatisfied with the standards of living which will follow in the wake of the depression. There will be a continuous search for the cause of these ills. Every institution will be challenged to ascertain the cause. They will all be tested in the scales of efficiency, and those found wanting will be cast aside. The courts cannot hope to escape the test. New ideas from foreign countries will be urged upon us as a panacea for our ills. If we are to preserve our judicial system, which is the backbone of our democratic form of government, it would be well for us to begin now to put our house in order so that we may be prepared to repel these foreign ideas, and convince the public that ours is the best system.

Now, you may be one of those who think it is unnecessary for us to sell our judicial system to our own people. If so, I think you are mistaken. In the first place, we must concede that we cannot hope to compete with the totalitarian system in some respects. Perhaps I should illustrate. In this country if two automobiles collide at a street intersection and an occupant of one is injured, we employ counsel and file suit. After some months' delay a jury is impaneled and a formal trial had. The trial may last for days. Lawyers, jurors, witnesses, and the court officials are involved. After judgment an appeal is prosecuted and numerous other delays are encountered before the offending party is made to compensate for his wrong. On the other hand, if a similar accident should occur in Germany, Italy, or Russia, a member of the Gestapo, or some other officer with similar authority, would probably arrive upon the scene before the wreck was cleared away. He would interview the parties on the spot, and single-handed decide who was to blame and the amount of the damages. He would write out his judgment on a slip of paper, deliver it to the parties, and ride away on his bicycle in less time than it would take the claim adjuster of an insurance company to reach the scene of the accident in this country. Now, we cannot hope to compete in such a speed contest, and yet the simplicity, promptness, and inexpensiveness of such a system appeals to the unthinking man more often than you think. I was somewhat surprised a few days ago, when discussing with a lady the difference between

our system and that of the dictators in the administration of justice. After I had explained to her how much more economically and rapidly their system worked than ours, to my surprise she said: "Why don't we adopt their system?" I confess with some embarrassment that I was so dumbfounded I did not have an answer for the moment. I had assumed, of course, that every one who had drunk of the blessings of liberty enjoyed by the people of this country, knew that the very basis of our liberty sprang from the fact that none of our rights could be taken away from us except upon a public trial before a fair, impartial, and disinterested court; that the very foundation of our system lies in the fact that our trials must be held in public, under the scrutinizing eye of a vigilant press; and that the superiority of our system, although a cumbersome one, is well evidenced by the fact that the millions who eke out their miserable lives under this European "efficiency" system yearn for just a little of the liberty that is the common heritage of every citizen of this country.

Yes, we need to put our judicial system in the best possible condition, and then resell it to our own public. Whether it be well founded or not, there has grown up in this country in recent years a belief that the expense of litigation has become prohibitive; and that the long delay incident to going through our congested courts, and the uncertainty of being able to prosecute a case to a just conclusion without reversible error are insurmountable. This idea prevails not alone among average citizens, but among those in high places. The President of the United States so expressed himself in his message vetoing the Logan-Walter Bill. In this connection he said:

> "Litigation has become costly beyond the ability of the average person to bear. Its technical rules of procedure are often traps for the unwary and technical rules of evidence often prevent common sense determination on information which would be regarded as adequate for any business decision. The increasing cost of competent legal advice and the necessity of relying upon lawyers to conduct court proceedings have made all laymen and most lawyers recognize the inappropriateness of entrusting routine processes of government to the outcome of never-ending lawsuits."

Now, you may say that the existing conditions were not such as to justify these charges. And I agree with you. Certainly they were not such as to justify the vetoing of this bill. But whether these charges were unfounded or not, such statements show what the people in high places are thinking of our judiciary.

The effect of such propaganda is well known to every member of this bar. It has resulted not only in the impairment of the confidence of the public in our judicial system, but in the destruction of the lawyer's busi-

ness. The people, unwilling to undergo the supposed hardships and to pay the expense incident to such a system, settled their cases without the aid of counsel—some paying far more than they owed and others receiving much less than they were entitled to receive—without regard to the true merits of the case. In addition it has furnished the excuse for the establishment of administrative bureaus for the determination of the rights of the people. These bureaus are hybrids between the judicial and executive branchs, with almost absolute and final fact-finding power. As was stated by Judge Cooper this morning, the employees of the same agency determine the policy to be followed and the object to be accomplished, institute the investigation, gather the evidence, file the complaint, prosecute the case, and sit as judge, pronounce judgment, and enforce the decree. In my opinion there is not a great deal of difference between the powers sometimes exercised by these agencies and those exercised by the Gestapo under a totalitarian government.

It may very well be said that we are not at fault for the criticisms that are being directed at the judiciary—certainly we are not wholly at fault—but rightly or wrongly the judiciary gets the blame. All too long we have ignored these complaints with complacency. A feeling seems to have prevailed that we were among the "untouchables." We viewed these complaints as coming from the uninformed, who could do nothing about it; and since we were handling the business in the time-honored way, there was no need for us to do anything about it. But in this we were mistaken. Although they were uninformed, and many of their complaints were ill-founded, they have succeeded in moulding a sentiment that has not only materially injured the lawyer's business, but has threatened the very existence of some of the fundamental principles of our judicial system. It must be remembered that the judiciary "possesses neither sword nor purse; its strength is to be found in the reverence of the people for the sanctity of the law." If the judiciary is to maintain a high prestige it must have the confidence of the people. We must regain the confidence of the public by making our judicial processes command the respect of those who come in contact with them. We must retain the good in our system and eliminate the defects so as to command the respect of the layman.

In the first place, we must see to it that the Legislature furnishes sufficient funds to adequately man the judiciary. If briefing clerks or other assistants are needed they must be supplied. It will serve no useful purpose to choke the judiciary financially in order to pay pensions, if our judicial system is to fail, and with it we lose our democratic way of life.

In the second place, we must convince the judges that the responsibility for making the system work is theirs, and that whatever reforms are to be brought about must come from the judges themselves. I recognize that this has not always been the attitude of the judges. They seem to have adopted

the "hands off" policy in this respect. This disinclination on the part of the judges to lead in steps toward improving the system is, in part, an outgrowth of an improper application of the doctrine that the courts do not initiate proceedings, but only adjudicate causes after the proceedings have been initiated by others. It is doubtless due, in part, to the fact that the Legislature, and not the courts, prescribed the procedure to be followed in the trial of cases. Under such a program, the courts are sometimes helpless to prevent an injustice. As a consequence, they not only deny all responsibility for the defects in the system, but wholly decline to make any organized effort to remedy the situation. They become timid and allow themselves to be relegated to the position of mere cogs in a system where they do, almost without discretion, what the legislative program requires of them. In my opinion this is the wrong attitude. They know better than any one else where the system works well and where it fails. They know wherein lies the remedy. They get the blame for its failures. It is their responsibility to lead the way in bringing about any necessary reforms.

In order to obtain the full value of the services of our judges in bringing about needed reforms, there should be an integration of the judiciary, and the judges should be called into a conference annually for their general improvement. Perhaps I should give you the benefit of our experience in this respect in Texas. In 1941 the Supreme Court invited the appellate and trial judges to attend a meeting for this purpose, and although some of these judges had to travel over five hundred miles at their own expense, more than one hundred of the one hundred and fifty-one judges were present. The discussions were so beneficial, and the judges were so well pleased with the opportunity of having a face to face discussion of their problems with the members of the Supreme Court and their fellow trial judges, that they requested the Court to call them together annually thereafter for the same purpose. It has now become an annual affair. It is surprising that we did not get around to this sooner. Under the judicial system of most States every judge stands alone and every court is an institution unto itself, wholly independent of all others, save and except for the power of reversal by some higher court. This lack of unity of the judges and supervision of the courts is the outstanding characteristic of most judicial systems. One could hardly imagine a business concern which employs so many salesman or executive heads, transacts as much business, expends as much money, and so vitally affects the rights of the people as the courts do, attempting to get along without some sort of get-together of their employees for their mutual improvement. Certainly much good can be obtained through such conferences. They provide schools of jurisprudence, and especially of procedure, for the judges. They furnish forums for the discussion of suggested reforms and the crystallization of proper standards of procedure. In short, they bring about a pooling of the ability of all the judges for the common good. Judges should be re-

quired to attend such conferences. Of course, I do not advocate any supervision other than the power of reversal by a higher court over the exercise of the judicial functions vested in the judges. The judge must at all times be free in the exercise of the judicial discretion properly vested in him. That is one of the fundamental, sound characteristics of our American courts, and it must not be disturbed. But there are numerous other administrative features—too numerous to be here mentioned—wherein proper supervision and coordination would greatly improve the system.

Undoubtedly full rule-making power for the trial of civil cases should be conferred upon the courts. This is so because, in the first place, such powers properly belong in the courts. The Legislature has neither the time nor the experience to give proper attention to the matter. The majority of the legislators are laymen, wholly untrained and inexperienced in the technical rules employed in the trial of a lawsuit. For them to undertake to prescribe the rules for the trial of a lawsuit would be similar to a scheme that would delegate to the lawyers the responsibility of prescribing the technique to be employed by a surgeon in removing an appendix. The operation might be successful from a legal point of view, but probably not very helpful to the patient. Moreover, the Legislature meets only every two years and their time is fully consumed in matters of greater state-wide importance. Consequently legislative rules, although they prove to be defective, are difficult to amend. On the other hand, the Supreme Court is continuously in session, and is available at all times when amendments appear to be necessary. Judges are not only experienced in the trial of cases, but are engaged in the administration of justice as an everyday business. They are able to quickly determine which rules work well and which do not. They know when an injustice results from an unwise rule, and generally know from experience whether the defect can be remedied by a new rule. Moreover, there will nautrally be an inclination to interpret their own rules in favor of justice. Often the courts, out of deference to the legislature, are inclined to follow the strict letter of the statute, even though its application results in an injustice. The courts justify themselves by saying that the legislature has so provided, and if injustice results therefrom the fault is with the legislature and not the courts, and any relief to be obtained must come from the legislature. On the other hand, they will not permit their own rules to be so interpreted as to bring about a rank injustice.

Moreover, by conferring upon the courts the power to prescribe their own rules, you place more squarely on them the responsibility of making the system work more efficiently, and in return you are apt to obtain their more complete cooperation. In Texas the rule-making power was conferred on the Supreme Court and new rules adopted in 1941. Almost over night there arose a change in the attitude on the part of the judges. No

one seemed to have anticipated it. Nevertheless, it was there. I refer to the shifting of responsibility for the defects from the legislature to the courts. Everywhere the judges, from the trial court to the Supreme Court, began to realize that the responsibility for making our judicial system work well was theirs, and that if it did not work well it was up to them to remedy the situation. They began to openly espouse reforms, both through the press and in public meetings. They took the lawyers into their confidence, and invited them to assist in improving the system.

Lastly, we must not overlook any opportunity to improve our relations with the public. The trial judges must remember that it is their courts with which the public most frequently comes in contact, and by which the standard of the whole judicial system is measured. Each judge must remember that any slovenliness or other failure of duty on his part will bring reflection on the whole judicial system. We must not overlook the rights of jurors and witnesses as well as the litigants. By the strong arm of the law we may compel jurors and witnesses to leave their businesses and attend court. This is necessary to the end of justice, and as a rule, they cheerfully submit to the demands of the court so long as they are kept busy. But if they are required to sit idly around court and wait for exceptions and motions to be argued and other preliminary matters to be disposed of before being called upon to perform their part in the trial, they become impatient, and critical of the courts. They cannot understand why they should be called from their work before the court is ready to use them, and, frankly, I do not understand it either. They are not mere pawns to be used by the lawyers in playing a game. They should be kept away from their work only so long as is necessary to enable them to properly perform their functions in the trial of the case.

Much of this unnecessary consumption of the time of jurors and witnesses can be avoided by the proper use of pre-trial procedure. The theory and practice of pre-trial procedure is very simple. It contemplates that before any case is placed on the active trial calendar, there shall be a preliminary hearing before the judge for the purpose of adjusting pleadings and disposing of all preliminary matters so that when the case actually goes to trial nothing will remain to be done other than to select the jury and hear evidence on the really disputed issues. Ordinarily the judge calls such preliminary hearing a few weeks, or where the term is short, a few days, before the case is to be reached on the trial calendar. The attorneys and usually their clients are required to attend the hearing. The hearing is informal and requires but little time. The first step is to pass on demurrers and exceptions and to ascertain whether the pleadings are otherwise satisfactory. If exceptions are sustained, or it is otherwise determined that the pleadings should be amended, the parties are given a reasonable time to amend prior to a subsequent preliminary hearing. A discussion is had

to ascertain what issues are actually in dispute, and, where it is possible, stipulations are obtained on all undisputed issues. An effort is also made to ascertain whether the case can be settled or otherwise disposed of without trial. The advantages of such preliminary hearing are many. In the first place, if an amendment should be required, the parties are given a reasonable time in which to amend prior to a subsequent preliminary hearing. In this way, the attorneys are not required to prepare their amendments under the stress of an immediately pending trial. In the second place, the trial judge is not harrassed by the presence of an impatient jury while the exceptions to the pleadings are being argued, and the time of jurors and witnesses is not unnecessarily consumed. By no means the least advantage to be obtained by pre-trial hearings is the bringing about of satisfactory settlements between the parties. In fact, it is believed that the benefits thus available are alone sufficient to justify the adoption of such procedure. In this connection, I remind you that the judicial process must not be thought of as a duel between the parties or their attorneys, with the judge acting merely as a referee, keeping the score and enforcing the rules of the game, nor must the courtroom be thought of as an arena for the display of showmanship by the attorneys. The dispensing of justice is the fulfillment of the State's highest and most jealously guarded function. Also, I remind you that the litigant does not come to court to have his case run through the process of a formal trial by a jury, as a photographer would run the negative through a prescribed solution to develop the picture. He comes to court to get justice and looks to the judge for that purpose. The judge is hired by the State to bring about justice between its citizens. If a judge as a fair and impartial arbiter can take the parties and their attorneys into his office in an informal hearing and bring about a just solution of their problem without a formal trial, the laudable purpose of the State will have been accomplished, and the bitterness that flows from a trial avoided. Most litigants prefer to settle their differences. To them a trial is a nightmare. But each party is afraid to suggest settlement for fear his adversary will construe such gesture as evidence that he is "weakening," or his attorney will think that his previous statement of the case is false. The attorney is afraid to suggest settlement, for his client might think that he had sold out to his adversary. When the parties are brought face to face in the courtroom at the preliminary hearing and they learn what facts are admitted and what must be proved, and are thus informed of the weakness of their own case as well as the strength of their adversary's and are confronted with the realization that they must go to trial at an early date, it is always an excellent opportunity for settlement. A mere inquiry by the trial judge as to whether the case can be settled is all that is necessary to "break the ice" and start the negotiations. Statistics show that in those jurisdictions where pre-trial practice is in force, from 50 to 66 per cent of the cases are settled at such hearings.

The benefit to be obtained from pre-trial procedure may be summed up thus: Such procedure saves the time of the court, jury, witnesses, litigants, and lawyers, makes the work of the attorneys easier, enables them to realize their fees quicker, reduces costs, furnishes a more definite setting of cases, simplifies the issues for the jury, removes the element of surprise, and otherwise provides for a more speedy and equitable administration of justice.

Finally, lawyers and judges should avail themselves of every opportunity to go before luncheon clubs and other public gatherings and espouse the virtues of our judicial system. We must demonstrate to the public that we are doing the best that we can, and our system is the best that has been devised.

President Engle then introduced the next speaker, Mr. Archibald T. Higgins, Justice of the Supreme Court of Louisiana. Judge Higgins' address follows:

UNITY ESSENTIAL TO VICTORY AND PEACE

Judge Archibald T. Higgins

In the light of developments of the present world conflict, every thoughtful person must inexorably conclude that Democracy, as we understand and know it, is at stake, and whether it will survive or perish depends upon the plans and efforts of those who are endeavoring to protect and preserve it.

The time has come for vigorous and courageous action on our part, because we realize fully that patriotism is more than a sentiment—it is the acceptance of the duties which every American citizen owes his country; and that loyalty is more than an expression; it is the determination to perform those duties, regardless of the sacrifice. And so, today, in this great struggle between the ideals and principles of righteous government and the false theories of destructive forces, we will not shirk our responsibilities but will courageously and willingly discharge our obligations to our beloved Democracy.

Let us review the happenings previous to our entry into this awful conflict, and renew our determination to fight on, fearlessly and gallantly, until we have conquered and crushed the forces of brutality and enslavement and have secured peace and freedom for all men.

When our great President and the outstanding leader of the British people, Prime Minister Winston Churchill, met on the Atlantic Ocean, on our battleship, on August 14, 1941, they had then realized that the undoing and annihilation of a great many democratic countries had been accomplished by their brutal enemies through treachery, deception, and a

lack of common understanding and unity. The officials of these nations had placed too much trust in the hypocritical leaders of the Axis powers, who, at that very time had filled their countries with Fifth Columnists and saboteurs, and had sown the seeds of dissention and distrust against the other democratic nations and leaders. Because of lack of preparation and a sudden and unexpected attack from the enemies, the undoing of these nations was easy of accomplishment. In a contest between those who are conscientious and honorable and those who are sneaky and unscrupulous, it is characteristic that the initial advantage is with the latter, because of the foul tactics employed by them. Resorting to reprehensible methods is always a sign of lack of courage and is strongly indicative of cowardice. When the true light dawned upon Roosevelt and Churchill that the remaining democratic nations, without a common cause and unity, would suffer the same fate as the conquered democracies, they gave to the world the Atlantic Charter. It contains four fundamental objects:

(1) The abandonment of force, aggression, and territorial aggrandizement by all nations;

(2) The right of the people of each nation to choose their own form of government;

(3) Full economic collaboration among the nations, with equal access to raw materials, and freedom of the seas; and

(4) The assurance to human beings of freedom and a peaceful world in which to live, with opportunities for all.

The soundness of these policies was made clear to the people of 26 nations (now 31), for on January 1, 1942, the representatives of these respective governments signed the Declaration by the United Nations, pledging the full employment of all their resources, military and economic, against the members of the tripartite pact and its adherents, until final victory, without any separate peace agreement or armistice with the enemies.

At the Casablanca conference in North Africa the leaders of the allied nations reiterated that only the unconditional surrender of the Axis powers would be acceptable. Recently, Joseph Stalin, the resourceful leader of the Russian people, expressed his wholehearted approval of this stand. This means a victorious fighting force in wartime, and, in peacetime, a decent livable world for all men everywhere. It is sound judgment, excellent foresight and good statesmanship to have plans agreed to in advance, because people in adversity are much easier to reason with than those exulting in victory and success.

Since there are still incredulous people who doubt that we are fighting against brutality and slavery, let us briefly refer to the record: Simul-

taneous with Hitler's rise to power in Nazi Germany, the fundamental teachings of all Churches—Protestant, Catholic and Jewish, were attacked, their people and leaders persecuted, imprisoned and put to death, and all of their possessions and wealth confiscated. Labor organizations met the same fate, because on May 22, 1933, they were abolished, their headquarters raided, their funds seized, and their leaders imprisoned or executed, and the workers placed in a state of enslavement and compelled to work long hours under unfavorable conditions, at low wages. Freedom of individual conscience and intellect, as well as freedom of the press were wiped out through the Dictator's edicts. Motherhood was desecrated, the Nazi's openly advocating that young women bear illegitimate children in order to feed the Nazi war machine. Morality in general sharply declined and juvenile delinquency increased. Children were taught to distrust their own parents and to place loyalty to Hitler above their devotion to their mothers and fathers. They were encouraged to spy even upon their parents and to betray them to serve Hitler. The record speaks equally unfavorably of the Fascists of Italy and the imperialistic fanatical war lords of Japan. Individual rights in all respects were subordinated to a totalitarian type of government.

Where ever these three enemies of civilization and humanity have conquered the peoples of any nation they have been guilty of savagery and barbarity. They have robbed people of their goods, materials and valuables. They have jailed, starved and killed. They have placed the leaders of religious and labor organizations in concentration camps, and have forced the yoke of slavery upon people by compelling them to work in every way possible for the production of war materials and war equipment for their machines of destruction and death. They have insolently boasted that they would conquer the world and enslave its people, because they were of superior races. The Hitler-Youth song is "Today we own Germany—tomorrow the world."

With these facts and truths before us, the nefarious and horrible plans of these co-conspirators are made clear and plain to every understanding person. The leaders of the Axis powers, realizing the effectiveness and the potency of the Atlantic Charter and the Declaration of the United Nations, have set up a barrage of hypocritical propaganda to undermine them. May I call your attention to a few flagrant misrepresentations: They have told us and some of our people unfortunately were gullible enough to believe that the gallant people of the British Isles would fight until the last soldier, sailor and aviator of the Dominions of the Empire were killed. Obtainable statistics show that about 70 per cent of all of the Empire's casualties in this War were subjects of the British Isles. Sixty per cent of these brave peoples' total national income is being expended on the war. For every plane imported, five were exported, and for every tank imported, fifteen

were exported by the British people to the far-flung battle fields of the world. After the tragic fall of France, England stood against the Axis powers alone and we now know that all that remained between the world and disaster was the British Lion. In spite of the repeated and terrible bombings, which caused so much property destruction, maiming and death, the English war production was extended and increased. Notwithstanding the fact that England was wholly lacking in preparation for war, with the exeception of her fleet, the Royal Air Force was built into an effective fighting unit and hurried military preparations were sufficiently made, to force Germany to hesitate in her plans to invade the British Isles. Did you know that even months after the treacherous Japanese attacks on Pearl Harbor and the Philippines, that forty-six million people of Britain produced more war materials than one hundred thirty-one million, six hundred sixty-nine thousand, two hundred seventy-three people of the United States. We must not forget that England with its magnificient fleet has policed the oceans and seas of the world almost single-handed until our own Navy joined her in this great conflict. England's military strategy in fighting a delaying action has given us precious time in which to prepare, and so we owe to the courageous people of our mother country a deep debt of gratitude.

Realizing what a formidable enemy Russia is to the Axis powers and a valuable ally to the United Nations, the Nazis propagandists began to sing another insidious song, but, happily for all of us, they struck a discordant note. We were told and, again, some of our isolationists and pacifists passed the stories along that Russia would make a separate peace with Germany and lay down her arms, leaving the brunt of the battle to the British and American people. Our attention was directed to the fact that our relations heretofore with the Government of Russia were not altogether cordial or satisfactory. It was pointedly noted that Communism was inimical to the democratic ideals and institutions of the British and American people. It was also shown that the Russian Government's attitude towards and relations with the churches in that country and the treatment of its communicants were a source of regret to us.

It must not be overlooked that after the last World War, with its tragic consequences upon the individual lives of the Russian people, they went through trying times of readjustment. It took stouthearted and strong-willed leadership to solidify the Russian people behind a national spirit. In accomplishing this, drastic methods were used and a great many things were done which were hard for people with democratic ideals to understand. These things were most frankly faced. With that same candor, we cannot overlook nor deny that the brave Russian people are our comrades-in-arms and have electrified the world and justly won its admiration by the heroic struggle they have made against the violaters of

their territorial and political sovereignty. A treacherous, unexpected and hard blow was struck them by the great panzer, tank and air forces of the German might. The initial successes necessarily were with the invaders, but with an indomnitable fighting will and unconquerable spirit the Russians rallied behind their leaders and gave the invincible Nazi troops a terrible mauling, which startled and terrified the Nazi war leaders on a two thousand mile front. Instead of a short campaign, as predicted by Hitler, to make his people sanguine of victory, his forces became locked in a death struggle with the brave Russian troops, who understood their severe winter better than the would-be-super-human Germans. The Russian soldiers immortalized themselves for courage and love of country in their heroic defense of Stalingrad.

General Douglas MacArthur, certainly a competent authority, stated that the Russian Campaign was "the greatest military achievement in all history."

President Roosevelt said that "Russian forces have destroyed and are destroying more armed power of our enemies—troops, planes, tanks, guns —than all the other United Nations put together." Need I add more?

As we consider the great part that China is playing in this world conflict, I am afraid we must approach it in an apologetic attitude. Notwithstanding that all of our churches of different denominations have sent many missionaries to China for the purpose of enlightening and Christianizing her people, and in spite of the fact that they were being cruelly and ruthlessly treated by a group of international brigands, we failed to hear or heed China's pitiful cries for help. These humble, inoffensive people did not give any one any cause to make undeclared war upon them. Yet, we find the imperialistic Japs, without the slightest warning, bombing their crowded cities, killing men and women and children, and destroying their homes and their means of livelihood. When we attended the picture show, the telescopic lens and the sensitive instruments of the sound motion picture brought to us graphic scenes of these happenings. We heard the bursting of the bombs, the rapid fire of machine guns, and the pitiful wailing of mothers and children, as well as the death cries of those who were fatally injured. General Chiang Kai-Shek and his brave, devoted wife, with much heroic effort and danger to themselves, succeeded in implanting in the hearts of the Chinese people a nationalistic spirit, and they have fought long and hard against the superior equipped Japanese forces who have hopelessly outnumbered them in practically every encounter. In spite of the loss of one city and port after another, and although fifty million Chinese are refugees, without homes, and without a means of livelihood, and notwithstanding over two million Chinese boys and girls are orphaned, and the heartbreaking disappointment of lack of help from "old

friends" they have given a good account of themselves and refuse to be conquered by slave-masters and international gangsters.

The Bible assures us that those who are patient under long suffering shall receive their just reward. The prayer of the American people as well as all their might and strength will now be directed to bringing this happy conclusion to the present misery and suffering of our noble Chinese friends.

The people of the Netherlands and its possessions have likewise experienced the cruelty and hatred of the Axis powers—for Germany ran roughshod over the mother country or homeland and the Japanese occupied the East Indies. This, of course, was not accomplished without a struggle. The scorched earth policy so successfully used by the Russians was resorted to and millions of dollars worth of valuable industrial plants and raw materials were sacrificed before the advancing Japs could seize possession of them. The stouthearted soldiers and sailors of this country made such a daring and intrepid fight against overwhelming odds that our President sent their Queen Wilhelmina a eulogistic message of sympathy and assurance.

The countries that form the dominions of the British Empire—Canada, Australia, New Zealand, South Africa and India—have contributed their share of war materials and equipment, as well as fighting forces on the far flung battle field of the world. Australia is the front line bastion for the United Nations in the Pacific war area.

The people of Czecho-Slovakia, Norway, Poland, Greece, Yugoslavia, Belgium and Luxembourg, in spite of the tyrannical oppression of the conquering hordes of the Nazis and their reign of terror and enslavement, have shown an unconquerable spirit by frustrating, at every opportunity, the enemies' plans of organization and experience. Strong guerrilla forces are plaguing the enemy within its lines. A great many of the sailors and ships of these occupied nations are rendering invaluable services in maintaining our supply lines. Thousands of able and capable young men who have escaped to the shores of friendly nations have enlisted in the fighting forces of those countries with telling effect and particularly in the R.A.F. They all realize that the hope and the salvation of their beloved countries lie with the success of the United Nations' arms and the defeat of the Axis terrorists. We confidently predict and pray the day may soon come when these faithful and stouthearted sons of freedom may return to their homes in triumph.

In this hemisphere most of our sister American Republics have declared war on the Axis powers and signed the Declaration of the United Nations. They are invaluable in this crisis because of the strategic positions or locations of these countries and the vast amounts of war ma-

terials they produce and furnish. Ten other American Republics severed their relations with the Axis powers and another pledged its cooperation in the joint hemispheric measures to curb subversive activities. This is a formidable array of power and strength.

With a view of showing you that the outlook for future success is bright and neither dark nor hopeless, as the subversive agents would lead you to believe, let me say that the total Axis population was 618,334,000, the population of the United Nations was in excess of 1,346,121,000, including the United States, which has a population over 131,669,273. A canvass and analysis of the indispensable raw materials for war production and equipment show that the United Nations occupy a superior position to the Axis in all respects, except as to rubber, tin ore, potash, cement, bauxite and rye.

Enemy agencies in the other countries of the United Nations knowing the strength of this mighty nation have sought to discourage our comrades-in-arms by telling them that Americans, because of luxury, ease and pleasure, have become impotent, and any help from us will be practically nil or worthless, or too late, and therefore, the Axis powers are bound to be victorious. Some of our own people have unwittingly, also, given expression to the thought and others have added to it that America's present trouble is a form of retribution for its waywardness in forgetting God and becoming materialistic and worshipping mammon.

I denounce these as gross defamations. The teachings of our religious leaders of all denominations have unquestionably made their permanent impression upon the soul and spirit of our people. On every hand we see tolerance, justice, kindness and charity—all of which are founded upon love of God and a deep affection for our fellowman. These fruits of the good Samaritan spirit have not been confined to the inhabitants of our own country, but have been extended also to those of distant lands. A great many people of the Axis Nations and the people of the conquered nations as well as those of the United Nations have a reciprocal feeling of good will and respect for us, as a result of our friendly and neighborly attitude toward them. This kindly feeling toward us is founded upon a just and unselfish treatment and consideration of the rights of others whereso-ever they may be. I do not contend nor do our people maintain that our record in support of and cooperation with all religious, moral and character building efforts is perfect, but I think we can all truthfully say that that record will compare very favorably with the record of any other nation. When one takes into account that human disposition is not infallible and is prone to succumb to the temptations that constantly surround us, The Church's and Church School's efforts to place proper restraint and stablizing influence in our lives through a greater appreciation and under-

standing of righteousness and godliness cannot be denied. We have more reason to believe that God is not visiting misfortune upon us as a punishment than the people of other nations, because He has singularly blessed us. The opportunities for contentment and happiness in this country are, at least, comparable to those of any other part of the world. The States of the Union have been endowed by nature with great wealth and a healthy climate. The bounteous production of mother earth is unsurpassed by the fertile lands of any other country. Truly, it can be said that this is not a land of seven years of plenty and seven years of famine. So, I affirm that spiritually and morally we are substantially sound and have not incurred God's wrath.

Because of the high standard of living and the ease with which we earn our livelihood, it may be said that the overwhelming number of our people, who are the slightest bit industrious and intelligent, are unaccustomed to want and privation.

I will concede that we could not live upon a handful of rice and a cup of water as the Japs boast they can do. I believe it has been demonstrated as a scientific or medical fact that this is impossible over an appreciable period of time. What I do know is that our people will meet their sacrifices, hardships, and privations with greater intelligence, fortitude, and endurance than the sneaky and treacherous Japanese, because we live not by bread alone, but by the Word of God, who will sustain us in our greatest tribulations. Luxury and ease have neither robbed us of our fundamental physical soundness nor deprived us of stable characters. The blood that flows in the veins of the people of the United States is rich and pure in its origin. We come from good stock. Our forefathers from generation to generation have time and again proved their qualities in a most admirable way in writing a history under our banner of freedom that is the envy of the world. It is studded with accomplishments and achievements of great excellence. Liberty has not been perverted by us into license, for we have not done as we pleased, but have reasonably done that which was proper and right. Our democratic and friendly attitude has been misconstrued by our enemies and the unobservant as an evidence of weakness.

The present generation was slow and reluctant to believe that adequate national defense was necessary because of their faith and trust in the reciprocal feeling of good will of the leaders and the people of other nations. We, therefore, were caught in this war as in others—unprepared for the emergency. God again smiled upon us and blessed us by affording us an opportunity to prepare, notwithstanding we repeatedly failed to heed His admonitions and warnings of approaching danger. After the enemies' plans of conquest, exploitation and enslavement were clearly revealed to us, the heart and soul and the intellect and industry of the American people were dedicated and devoted to destroying the enemies of civilization, hu-

manity and godliness. America is being converted from an easy going, gentle, kind and friendly people to a hard, rough and tough adversary. The reports that we have already received show that the men in all of our services in the line of duty have that heartihood of character and spiritual strength to render their full devotion to a sacred trust.

The valorous feats and efforts of the heroes of the battles of Bataan, Corregidor, the Solomon Islands, Tunisia and Attu, and the engagements in the Coral and Bismark Seas and the Pacific Ocean near Midway and the Solomon Islands have demonstrated beyond any doubt that the enemies have met their match and a superior foe, and are assurances to our comrades-in-arms of the United Nations that Americans are writing another glorious page in the history of human affairs.

The doom of our enemies, the hosts of evil and satanic influence, is now being inevitably sealed. America's vast industries have been converted in a phenominal way from peacetime pursuits to a war basis with such miraculous capacity for the production of all kinds of military equipment and implements as to require a keen imagination when we endeavor to visualize it. Our tremendous ability to produce enormous quantities of various foodstuffs is being employed to increase our output so as to help feed large numbers of the peoples of the Allied Nations. Through the Lend-Lease Program we have been and are now effectively placing in the hands of the forces and the peoples of the United Nations these vital materials in ever increasing amounts. We are raising, training and equipping an armed force up to ten million Americans and have in a large measure accomplished that objective in an incredibly short period of time and in a thorough manner. It will be one of the greatest and most effective fighting forces any nation has ever assembled. It will achieve decisive and brilliant victories for us on land, on sea and in the air. The United Nations have superiority in manpower, materials and productive capacity over the Axis powers and to assure victory and peace we must avoid dissension and remain together.

Ironically, by a cruel turn of fate, the same challenging question hurled by Patrick Henry at his co-patriots just before the outbreak of the Revolutionary War comes echoing back to us today—"Is life so dear and peace so sweet as to be purchased at the price of chains and slavery?" I hear your unhesitant and instant answer, the same as he gave for his countrymen and himself at that time given now by you with thunderous accord and unanimity "Forbid it, Almighty God! I know not what course others may take, but, as for me, give me liberty or give me death." This will always be America's Answer because our people believe that "liberty is the breath of God and the life of man."

The All-wise and Ever-loving Heavenly Father has thrice blessed us for although our vision has been obscured by the mist and clouds of decep-

tion and treachery, we now clearly see that He again entrusts to us the noble mission of bringing Peace on Earth and Goodwill to men, although twenty-five years ago, because of confusion, we failed Him. This time we shall furnish an unfaltering leadership based upon justice and righteousness, which will establish permanent peace secured by the spiritual, moral, and physical strength of the peoples of the United Nations.

To the sacred trust reposed in us by our inseparable and unified comrades-in-arms of the United Nations and by our departed comrades who have laid down their burdens to rest eternally, we pledge our honor, our fortunes, and our lives for the destruction of brutality and slavery and the restoration of freedom and peace.

War is a throwback to the primitive instincts of man, an echo of barbarism. The generation that rids the world of this terrible scourge will be truly called humanity's greatest benefactor and the time when this is accomplished can justly be referred to as "The Golden Age."

With God helping us in this Divine Mission and guiding us by His Holy and Eternal Light, we cannot fail them, we will not fail them.

Motion to recess was then adopted.

Morning Session

June 4, 1943

Mr. Engle called the meeting to order and introduced Mr. W. A. Ellis of Carthage who read his annual poems:

Meridian, Mississippi

Queen city, we greet thee in legal refrain,
And acknowledge thy kingdom of long, happy reign.

Queen city, "we love thee; no time can erase
From the heart" of us lawyers, thy beauty and grace.

The charm of thy manner, the glance of thine eye,
Give us all a broad welcome that none can deny.

Thy maidens and matrons, so winsome and wise,
Win the blessings of heaven in each worthy prize.

The blush of thy maidens, which nature bestows,
(More charming than pastels which artists' impose),
Far surpasses the attar of morn's dewy rose.

You shine with a lustre from Bench and the Bar
Philanthropic Fraternals and bright Eastern Star.

Thy schools and thy churches, remind one and all
Education and worship respond to thy call.

The Jew and the Gentile live ever in peace;
May they prosper together and business increase.

The home of Judge Amis, who for a good cause,
Wrote a book on Annulment and our Divorce laws.

Surrounded by mountains whence living streams flow,
Cooling fountains abound in thy valleys below.

Old Ponce de Leon, in search of the truth,
Vainly tried to discover the fountain of youth.

No matter what stories are said of such things,
Healing waters abound in thy wells and thy springs.

If only he's quaffed from thy lakes on the hill,
He'd be living and drinking and bathing here still.

Thy buildings rise grandly way up in the air,
From the basis to summit on lots Three foot square.

Commercially speaking, you rank rather high,
Dodging taxes like others, lest caught on a Fly.

Hotels and boarding houses hang out the glad sign:
"Mister Judges and lawyers, please come here and dine.

Our rooms are well furnished from two dollars and up,"
And we serve you one egg, each, and coffee, one cup.

In peace and in war, you labor and save,
"For the land of the free and the home of the brave."

Thy press and thy pulpit in search of more light,
Keep on printing and praying for God and the right.

Thy soldiers and sailors sail all seven seas,
And have given the nation two great master Keys,

Unlocking the East with its tropical store,
For the good of all nations henceforth, evermore.

And when the war's over, rejoicing will come,
At the victor's returning to home, his "Sweet Home."

America

1943

Tribute and Prayer

All hail to the land of munificent glory,
Of liberty, justice and freedom for all
The theme of the poet in song and sweet story
The hope of the ages, her last, greatest call .

She sprang from the west out of great tribulation
The brightest exemplar of true, modest worth;
In riches and honor, in high rank and station,
Above all the kingdoms and empires of earth.

How little we dreamed of the sword hanging o'er us
When first we engaged in this second world war,
How many proud nations would ask—then implore us—
To help them destroy what good men abhor.

The burden's upon us—no use to deny it—
We're bound to help others crush wicked, world wars;
For fate so decrees and events justify it—
America, forward, leap over all bars—
Thy record of valor still shines in the stars!

Lord God of our fathers, forbid that we perish
But live with the freshness and vigor of youth,
Accomplishing all that is worthy to cherish,
Our fortunes and lives on the altar of truth.

O, may we remember the word Thou hast spoken
Engraven so deeply, 'twill never depart,
That kingdoms of earth will arise and be broken
Unless they are founded on truth at the heart.

O, hasten the day when all men will grow stronger,
In friendship and love, not the rule of the rod,
When peace and good will be delayed us no longer,
But reign here on earth as rich blessings from God!

W. A. Ellis.

A motion was then made and carried that all business be completed at the Morning Session and the Afternoon Session be eliminated.

Mr. Brewster offered the following resolution:

MR. BREWSTER: Be it resolved by the Mississippi Bar, in its regular 1943 Convention, that the Legislature be requested to pass a law that the defendant in criminal cases shall have the right to subpoena as many as three defense witnesses, to be paid by the county, as state witnesses are pair, upon the application of the defendant therefor and order of the court approving such application. I was prosecuting attorney for many, many years, and I think that the defendant under a law of this kind would be more apt to receive that fair and impartial trial that our constitution guarantees. The rule in Federal courts is that a defendant on proper application approved by the court may summon two witnesses to be paid by the government as government witnesses are paid. I have noticed, as a prosecuting attorney, that many negroes have come to me and asked to be summoned as state witnesses; they knew they would be paid. Many people charged with crime, their witnesses are far removed and if they come into court they have no way of having their mileage paid or remuneration for their travel or expenses and, therefore, in order to see that each and every person might receive justice, I offer this resolution and move its adoption.

The Resolution was amended to read that the defendant have the right to subpoena five witnesses at county expense and passed unanimously.

Mr. Engle then read the report of the proceedings of the Junior Bar, a list of the officers elected:

Richard E. Stratton, III, Chairman
Jackson, Mississippi

Paul Farr, Vice-Chairman
Prentiss, Mississippi

Directors

William N. Ethridge, Jr.
Oxford, Mississippi

Jack Carlisle
Ackerman, Mississippi

George P. Cossar
Charleston, Mississippi

Junior O'Mara
Jackson, Mississippi

Hardy M. Graham
Meridian, Mississippi

George Chaney
Vicksburg, Mississippi

Rae Bryant
Gulfport, Mississippi

Maxwell Bramlette
Woodville, Mississippi

Fleet Hathorn, Jr.
Poplarville, Mississippi

Mr. B. B. Allen of Indianola then read a resolution dealing with the labor situation. The following discussion ensued:

MR. GRAHAM, Meridian: I offer a resolution to strike out the name in that. I think this resolution ought to be based on principles; the name of no person should be called as it might indicate we have prejudices. It is not that, but it is against the principle. There is the name of one individual called, and I think it should be stricken. I move we strike the name of John L. Lewis out of the resolution.

MR. ALLEN: We will strike out the name and the resolution would read: "Labor racketeers must be curbed at once." It now reads: "John L. Lewis and other labor racketeers." The paragraph would start: "Labor racketeers must be curbed."

MR. REILY: I am not well enough educated to know whether this comes under the head of racketeers, those people who are profiting by war industries otherwise than those working with their hands. I am in favor of any resolution expressing the will of this organization that any man, whether he be the master or the servant, who for the sake of money does anything to delay the war program, I am in favor of expressing the will of this organization that we condemn it in the strongest possible terms. But I am not in favor of any movement that will condemn only those who work and not condemn those who profit by their work and who take advantage of it. And, therefore, I move that the resolution be so drawn that it provides that all who are delaying the war effort because of a desire or an effort to obtain additional money or increased pay or profits, that those be condemned as well as those who work with their hands.

MR. ENGLE: This could be clarified as to labor racketeers in the resolution—this is a suggestion—labor racketeers whether employer or employee.

VOICE: I was going to suggest if we are going to do an important job let's do it right and why not appoint a committee consisting of Mr. Allen and Mr. Reily to go out and re-draft this resolution, bringing it out in the shape we want. It goes mighty far into other things. I do not know that we ought to have a blanket indictment against everything that

is taking place in Washington. We might go too far in echoing criticisms against what our leaders are doing. They are working under many difficulties and to say that everything is going wrong there might in itself give help to the enemy. You can not indict a whole nation and, for God's sake, let's not indict our own nation in too broad terms.

MR. ENGLE: The indictment here in the resolution is in this paragraph: "A veritable bedlam has been created at the very seat of our government in Washington, etc."

MR. HOSEY: I had a personal conversation with Mr. Allen about three weeks ago in his office, and I know his intention, but it has struck a chord in my heart as it has in this gentleman's heart and other people's hearts. This war was started for three things: waste, selfishness, that grasping for money and power, and power mostly now, the grasping of that power in the hands of a few, ingratitude even to my son and your son serving the American people back home, and third, the turning of our backs on God Almighty. These are the three things that worry us back home today. That war is not going to be over in one year, or two years, but Mr. Allen did not intend it to do that; but in this resolution as it is embodied it indicts not only labor but the President of the United States, the greatest of the seven great presidents in history. I resent it. Why, according to my idea—I am just one human being—the seven greatest presidents are: Washington, Jefferson Davis, Lincoln, Jackson, Teddy Roosevelt, Woodrow Wilson and Franklin D. Roosevelt, and they are the only seven real presidents we have ever had. Some of them are Republicans. I am going to vote the Democratic ticket. I was born a Democrat. I don't like some things going on in Washington, but I don't want to see any one criticize my president, even if he is Hoover. I do not criticize now the one who is doing this. Let's be plain and honest with ourselves, with our countrymen, with the soldiers and the sailors on the sea—it is the dollar a year men like those fellows who run the food situation. They are the biggest business men in the United States today. And they have not got the backbone to deliver the goods. The President had to appoint them. There are men on the War Labor Board today who have not got the nerve and the guts to say "No" to the biggest criminal that I have ever known, Mr. John L. Lewis. He has issued an order as secret as any Commander-in-Chief of the Army and Navy could issue on these matters. Lewis stood up and said to his men—six hundred thousand of them—"Don't pay any attention to it, ignore it." He is an American citizen. He is under the jurisdiction of the Commander-in-Chief. If that son of yours, fighting in the Pacific alongside of mine, when the order got to him to fight and he did not pay any attention to it, my son would have been shot; he would have been shot there on the ship. He might have been given a military trial the next

morning, but I doubt it. That is what Lewis means to me. He is afraid to come to the South. He would not get through Mississippi on the Southern or the I. C. either one. Now if you pass this resolution, don't send it to our Congressmen and our Senators, send it to all the Senators in the United States and all the Congressmen. It would not cost but a little money. Let them read it over. This thing is to condemn all racketeers. It is in this country just as in France.

MR. GRAHAM: We talked this over and I know how you stand. I ask that a committee be appointed, and make a motion to do that.

MR. REILY: Mr. President, there is no better man I know of qualified to do this than Judge Stevens. He is a clear-headed lawyer, and I might be left, but I humbly submit and I think the body of you men agree, he is a dispassionate splendid lawyer and a fine man, and I think he would be of great service to the committee.

MR. ENGLE: Judge Stevens, Bob Kelly and Mr. Allen will be appointed as a committee to re-draft this resolution.

Mr. Bidwell Adam, of Gulfport, next submitted the following Resolution:

MR. ADAM: Whereas, the lawyer is an essential factor in our system of Government and his services are required and used freely in the problems confronting our civil and military set up; he is rendering freely numerous services for the men in the services and their families, getting affidavits to aid in family allotments and procuring birth certificates, protecting the rights of service men and their families under the Soldiers and Sailors Relief Act, aiding in the bond sales campaigns and other war efforts, and doing all these things and many others, free of charge; and he is an officer of the courts administering the law and he is subject to the penalties of contempt by the court if he be late or does not appear; and his services are so essential that the home front could not be effectively carried on without such services; and whereas due to the absence in the services of a large portion of the lawyers of this State, the lawyers of this State remaining in the civil life are called on to do and perform numerous additional services and to travel about more than usual in the performance of their duties to the court and their clientel, and to render aid in the war effort; and Whereas, there are many Rationing Boards in this State that do not allow to the lawyer sufficient gasoline for him to perform these services and these duties in the performance of these essential services:

Now, Therefore, Be it resolved by the Mississippi Bar, in Convention assembled at Meridian, Mississippi, this the 4th day of June, 1943, that we call on the Office of Price Administration and those in charge of the Rationing program in Mississippi to take steps immediately to instruct Local

Rationing Boards to grant unto the lawyers of this state sufficient gasoline to be used by them in the proper performance of these important duties and functions.

The Resolution was amended to include the fact that lawyers are officers of the court administering the laws of the land and subject to penalties if they did not appear and adopted as amended.

Mr. W. S. Welch, Laurel, presented the report of the Civil Rights Committee. His remarks follows:

Civil Rights Committee

Mr. Welch: Before presenting the report of the Committee, I want to take the liberty of reading one paragraph from a letter that was addressed to me by a member of the Committee. I think the Chairman has a prerogative to name someone to make the report and I named John Morgan Stevens. He said this: "In my judgment many controversial points could be argued at the State Bar Meeting but it is my confirmed judgment that all of us should sidestep in entirety all differences and devote ourselves, our talents, and our resources to the vigorous prosecution of the war, and in doing so we will be making the greatest contribution we know of to our Bill of Rights." The Committee concurred in it and we have signed the statement Mr. Stevens made. The following is the report of the Committee on Bill of Rights:

Your Committee on Bill of Rights respectfully reports that nothing has been referred to us for our consideration or attention. Your Chairman has certified to the Council for Civil Rights, 291 Broadway, New York City, the membership or personnel of the committee.

It is needless to reiterate our faith in the principles embodied in our Bill of Rights. We should see to it that no one shall remove the landmarks of our forefathers. We assume that in this tragic hour primary consideration is being given to ways and means of winning a global war and regaining a lasting peace. It occurs to us that the members of the Bar could have no higher purpose or more safely and securely preserve for ourselves and our posterity those rights vouchsafed to us by the Federal and State Constitutions.

It is well that a committee of this kind be maintained as a part of our administrative machinery.

Respectfully submitted,
W. S. Welch, Chairman
John C. Stennis
W. Lee Guice
Forrest B. Jackson
J. Morgan Stevens

The report was adopted on motion of Mr. Welch.

The report of the Legislative Committtee was given by Mr. Marion Reily.

LEGISLATIVE COMMITTEE

MR. REILY: As Chairman of the Legislative Committee I suppose I should say something. I beg to say that throughout the year since we had our last convention, there has been no meeting of the Legislature and there were no legislative matters with which we have had to deal. Therefore, as Chairman, I have nothing to report, but I see you have about two minutes before the speaker is introduced. I want to discuss one matter with you very briefly—I assure you I will not take over five minutes.

When I was in Natchez years ago, the question came up about whether or not the ministers in the city of Natchez should discuss a certain condition that prevailed in that county, and there was one little redheaded fellow, who afterwards came to this town and became the most popular minister in Meridian, and on Twenty-third Avenue, about three blocks up here, you will find one of the most beautiful churches in Mississippi named after him. He died here; his name was Watkins; he was a brother of a very distinguished past president of the Mississippi State Bar Association. He made this statement: "If a thing is on your heart, preach it." That was a test as to whether or not a thing should be discussed from the pulpit. "If it is on your heart, preach it." And I have discussed with other members of the Committee the matters I am going to mention to you briefly, and I am certainly going to call them to your attention hoping that during the coming year they may walk about within your hearts and you too may give to them that consideration which I feel that they are entitled to.

In Mississippi today we have a condition prevailing where it is practically impossible to make a worthless father support his children. I had in my office the other day a little woman who came with one child in her arms and one hanging on to her finger, and she told me on the night before her husband had driven his car through the picket fence and stopped his car within a few feet of her window, and there he spent the night, or the major part, with another woman. He had informed her that he wanted a divorce and if she did not give him one, he was going to another place and she would never get anything for her children. I am sorry to say that there are men in Mississippi who call themselves lawyers who would handle such a case; they are not lawyers; but there are men to whom that man can go and say: "I want a divorce; you go see my wife and make her sue me, and when she sues me, I will pay the fee." I am sorry there are men who call themselves lawyers who will engage in such business, but there are such men and the result is when he comes and tells his story and the little wom-

an stands faced with the problem of being turned aloose with the children on her hands and not a dollar, she will refuse it first and weep, but, in the course of time, she will say, "Well, I better get something than nothing, and he tells me if I let him have a divorce he will send me something, but if I oppose him he will not." That condition prevails every day. I have known men married to three and four different innocent girls, and fathered children, and then thrown them aside like a forgotten story. I have known them, and you have known them.

Now, there is a responsibility upon the shoulders of the lawyers of Mississippi and every other state to see that there are adequate laws to protect those who are entitled to the protection of the law. Now who is going to speak up for those little children and for their mothers? Labor is not going to do it, he does not know how; and if the lawyers do not, nobody will. And when the Legislature meets again this organization, in my humble opinion, ought to have a Committee appear before that body and try to have proper legislation passed to remedy the situation. You can go into Court and sue the man and get a decree for alimony, but it is gone with the wind. You can even have him arrested and put him in jail, though it is very seldom done. He will give bond and get out and disappear. And what is the result? Throughout the width and breadth of the State there are children walking the streets without food and without the necessities of life. Statistics show that eighty per cent of the major crimes, those characterized by violence, are committted by boys under twenty-three, and sixty-eight per cent of that eighty per cent are children whose mothers and fathers for one reason or another have separated. They have either been divorced or the father has been killed. They have been denied the united love and advice of a father and a mother. Now, as a lawyer, and a very humble lawyer, permit me to say this to you: all that is noble in us ought to resent that condition. So far as I am concerned the man will leave the State if we pass a law that makes him support his children, but I for one do not want in this State any man who will desert his children—that is the way I feel. The quicker we get him out of this State so he will not beget other children, the better it will be, and I want to make a motion, Mr. President, now, that you appoint a Committee to study this question and draw a proper bill to present to the Legislature to the end that we may have it said that if a man lives in Mississippi he must support his wife and children. This very night when you are within the confines of your home, blessed with the presence of a charming wife and adoring children, within this town there are men riding about with loose women while their wives and children are at home in tears. I have never been blessed by children but, as you get older and time overcomes you and you see children about the knees of other men, there creeps into your heart a sense that you can't express. I think it was James Whitcomb Riley, the man who wrote of the waving grain and the humble home, with clouds of

grain about the place, and then wrote that thing, An Old Sweetheart of Mine—that man who touched our hearts as few have. When he was old they asked the poem he loved best. He said, "I was walking through a house in a large city and I saw a child on a bed, and about the bed were the parents—I did not know them—but I walked in and I knelt down by the bed and I asked them, 'Let me weep with you, I who have no child to die'." And he left them and he went back to his office and in his book of poems you will find that little poem, "Let me weep with you, I who have no child to die." He thought it was the greatest thing he ever wrote. Every line bore the misery of a man who has been denied the tender touch of a child, and whether we have children or not, I can not see how the Mississippi lawyers can sit idly by and permit this condition to remain a day longer; therefore, I make a motion that a Committee be appointed to draft a resolution to make it impossible for a man to live in Mississippi without supporting his wife and children.

The following discussion ensued:

JUDGE RIDDLE: I believe I am a member of that Committee, and I want to second that motion and say that if all of our lawyers could come face to face with this as Judge Reily and I have, you would be heartily in favor of it. Our county attorney and probation officer have handled over two hundred cases since January 1; a great many can be traced from what Judge Reily is talking about, and if something is not done, I don't know what is going to happen but it is the biggest problem we have to deal with as county judges and attorneys and probation officers.

VOICE: I want to say this, it is a pretty good idea to take that up with the Chancellors to help this serious situation. They are the legal guiders of childhood in this community. The Chancellor ought to make inquiries and see if the man is deserting the children and if so it ought to be taken up with the district attorneys. The Legislature has seen fit to pass stringent criminal laws making it a felony for a man to desert his wife and children, and if the district attorney will take that up we have weapons in our hands in Mississippi. We will get to using them to put terror in the minds of men inclined to desert their wives and children.

MR. REILY: Under the law today you can prosecute a man who deserts his wife and children but when a man deserts his wife and children and goes to New Orleans or St. Louis or Chicago and the wife and babies are here hungry, the county attorney will tell the wife to make an affidavit against him, but you have to get the money to get him back here and all you can do is prosecute him. There is no method by which you can make them support their wives and children, and that is why I wanted a Committee to study the question and try to devise some means by which we can make the men support them.

The resolution as presented by Judge Reily was passed unanimously.

MR. ENGLE: May I suggest this thought to the Committee? In other states this problem has confronted people and has been met with measurable success by the institution of a Juvenile Court. You recall Judge Lindsay in the west who made a great reputation as a Judge of the Juvenile Court; he went to California and was there in charge of a similar court. We have such a court in Louisiana. They haven't it, as I understand, in all the parishes, but they do have a Juvenile Court in the large centers of population where the situation is more acute and so I want to suggest that in the appointment of a Juvenile Judge and Probation Officer to go with him, the woman seeking support for her children does not have to hire a lawyer. She states her case to the Judge and they do not have any jury to pass on the question of whether he is guilty or innocent. The Judge makes inquiries in such a method as he feels is adapted to the particular situation, and then he requires the man to pay so much, and notifies his employer, and the amount is held out of his pay envelope. The man has to report at certain intervals, and in that way men have had to support their families whether or no, and finding that they had to support their families willy-nilly they decided it would be more pleasant to do it willingly. We are open for suggestions for men to go on that Committee. I want people so geographically situated that they can get together and study the proposition and get up a bill for the Legislature.

President Engle then appointed a committee consisting of Judge Amis, Judge Stevens, Judge Malcolm Montgomery of Yazoo City, Gene Morse of Jackson and Marion Reily.

Mr. Alexander of Hattiesburg then offered the following resolution, and remarks:

MR. CURRIE: "Whereas, it is the opinion of many that the matter of juvenile crime and delinquency is one of the serious problems confronting us at this time, and whereas they feel that it should have earnest consideration and action at the earliest possible time,

Therefore Be It Resolved, that the President of this Bar Association be authorized and directed to appoint a Committee, consisting of three Circuit Judges, one Chancellor, one County Judge, and three District Attorneys, to study the present laws and the problems of youthful delinquency, and to draft suitable, appropriate, and adequate bills concerning same, to be presented to the next Legislature for its consideration and action."

I do not know much about parliamentary usage, but I should like to see that resolution adopted simply to study and present a bill for the consideration and action of the Legislature because I believe that our judges

will all agree, and I believe that all the public officials will agree, and I believe that all the lawyers will agree, that we are confronted with a great and serious problem in juvenile delinquency. The purpose is to try to get the best bill before the Legislature for its consideration by those who have first-hand knowledge of the problem that confronts us. I do not desire to take further time, and I thank you, and move the adoption of that resolution. The resolution was adopted and President Engle announced that he would pass the appointment of the Committee to the next President of the Bar.

Mr. Engle then introduced Colonel Stanley F. Brewster, Staff Judge Advocate of Camp Shelby, whose address follows:

ADDRESS
LEGAL ASSISTANCE SERVICE

COLONEL STANLEY F. BREWSTER

The Annual Convention of every State Bar Association is always an event of unfailing interest to members of the Bar, and I want to assure you that I am very grateful for the courtesy and recognition that has been accorded me by the President of your Association in inviting me to be present with you on this eventful occasion. And being a lawyer, myself, needless to say I feel at home in your midst.

In the short time I have been on duty at Camp Shelby, I have had the pleasure of meeting, and becoming quite well acquainted with many members of your Bar who practice in Hattiesburg, and I have never met a more affable group of lawyers in my life, and as I imagine they are merely representative of your entire State Bar, I not only welcome but deem it an honor, privilege and pleasure to be afforded this opportunity to extend my acquaintanceship with other members of your Bar.

When your President most graciously invited me to attend your Annual Convention, he intimated that he would like to have me address the Convention, but specified neither the subject that he would like for me to discuss, nor the time that he desired me to speak, and whereas there is an advantage in permitting a speaker to choose his own subject for the reason that it affords him an opportunity to discuss some subjects with which he is familiar, there is also the disadvantage that in choosing a subject with which he is familiar, it may *not* be one of interest to his audience.

There is also an element of risk in failing to specify the length of time that is to be allotted the speaker, and in arriving at a determination as to the brief period I shall speak, I was largely influenced by the story that perhaps many of you have heard, which has to do with a visiting preacher, who inquired of the rector of the church as to how long he should preach,

and was told that he could speak as long as he desired, but that experience in his church had conclusively proven that 'no souls are saved after the first twenty minutes', and whereas my mission is not so serious as that of the 'saving of souls', I believe the same yardstick is also applicable to an address such as I have been asked to deliver.

Prior to my being assigned to Camp Shelby, I spent thirteen months in service in Greenland, and there is so much serious business transacted at a Bar Association Convention that the thought occurred to me that perhaps it would be more interesting if I devoted the limited time at my disposal to some general and non-military observations and comments with regard to my tour of duty there, but for obvious reasons I decided that it would perhaps be inadvisable, if not improper, for me to do that at this time.

The subject that I have chosen to discuss, while perhaps not of such an interesting or entertaining nature, is perhaps more timely, and one that has recently become, if it was not before, a subject of interest to all members of this State Bar, and I want to say just a few words and make a few observations with respect to the 'Legal Assistance Service' that has recently been established by the War Department in conjunction with the American Bar Association, for dealing with the legal problems of soldiers.

Last night we were privileged to listen to the very interesting address of Mr. Bredell, wherein he discussed this subject from the viewpoint of the American Bar Association, so perhaps it would be both interesting and helpful if I discussed it from the point of view of its practical application within the Service.

During the current emergency when thousands, in fact, millions, of young men are being inducted into the Army, the question of whether, and to what extent, their legal rights and interests are being adequately protected during their period of service, is one of general interest to the public, and of particular interest to the legal profession, and before entering upon a discussion of the legal aspects of this subject, it might be helpful to point out the numerous ways in which the interests and welfare of an enlisted man are now being protected while in the military service.

In the first place, the base pay of a private has been increased from $30.00 to $50.00 a month, and this has been estimated by the Office of War Information to be the equivalent of $1700.00 a year as follows:

Cash Income	$600.00
Food, $1.50 a day	574.50
Barracks, shelter	120.00
Clothing, equipment	170.00
Medical, dental and hospital care	100.00

Saving in life insurance	63.40
Savings in cigarettes	10.95
Saving in laundry	32.50
Savings in postage and barber charges	28.65

In addition, a soldier while serving overseas receives 20% additional, which raises his base pay from $50.00 to $60.00 a month, whereas an officer receives but 10% increase for overseas service. Then there is also the allotment for dependents that has been established, whereby a soldier may allot $22.00 of his monthly pay, and his dependents receive a monthly dependency payment of $50.00 a month. In addition to this, there is the Soldiers and Sailors Relief Act, enacted by Congress in 1940, whereby a service man's civil liabilities, such as income tax payments, property taxes, suits for debts, and insurance premiums may be suspended for the duration, and an additional period of six months after the war. Likewise, the pending income tax bill which provides for an income tax exemption of $1500.00, which will suffice to exempt from taxation practically all pay received by enlisted personnel of the Army. If wounded, or injured, he also becomes eligible for pension, and compensation commensurate with the degree of disability.

Consideration should also be given to the manner and extent to which a soldier is protected *after* his period of active service has been terminated, such as the provisions for his reinstatement to his former civilian employment upon discharge from the Service; free medical and hospital care in one of the Veterans' facilities; and the preference in rating that is accorded him in applying for civil service employment with the Federal Government.

Every war gives rise to a lot of new problems, and living, and business conditions have become so complex since the last war, that one of the new problems that has had to be worked out with respect to soldiers is how to contribute to their peace of mind by relieving them of worry and anxiety with respect to their business and domestic problems, for experience has clearly established that a soldier's morale is impaired if he is being disturbed or harrassed by legal difficulties besetting his business, his family, or his property, and it necessarily follows that whatever tends to *enhance* the morale and fighting spirit of the men in the armed forces, helps to win and end the war.

It has always been the policy of the War Department to have their Judge Advocates give advice and assistance to soldiers concerning their legal problems, and whereas judge advocates should render such advice or assistance in so far as they are qualified and have the facilities to do so, the proportionate increase of enlisted men to staff judge advocates has become such that the rendition of this service interfered with the discharge of their other official duties, as the Judge Advocate General's Department

now has only about one judge advocate for every 4,000 men. Consequently, some other arrangement was therefore necessary whereby the judge advocates could be relieved of at least a part of this burden.

The War Department has had this problem under consideration for quite some time, and as the nature of the service required very frequently necessitates the services of civilian lawyers, the cooperation of the American Bar Association was sought by the War Department with a view to developing some plan whereby the legal assistance of civilian lawyers could be made available to members of the armed forces and their dependents, and as a result of their joint efforts, what is now designated as the "Legal Assistance Plan" was conceived, and has since been put into effect at all military camps, posts, and stations, pursuant to War Department Circular #74, of March 16, 1943.

This "Legal Assistance Plan" provides for the establishment of a general organization under the supervision and direction of the Judge Advocate General, and the collaboration of the American Bar Association through its State Bar Committee on War Work.

It also provides for the establishment of 'Legal Service Officers' at all posts, camps, and stations to be administered by a commissioned officer, designated the 'Legal Assistance Officer'. The administration of these 'Legal Assistance Officers' is conducted under the supervision of the Staff Judge Advocate, with a view to rendering legal service to the military personnel in much the same manner as medical service is provided for them.

The procedure whereby this plan is being put into effect provides for consultations by the 'Legal Assistance Officer' with all applicants for legal assistance, with a view to determining whether the assistance required can be rendered by the 'Legal Assistance Office', for whereas our facilities are necessarily limited, there are many services of a legal nature which we can render, i.e. the preparation of wills, powers of attorney, etc. On the other hand, there are many services which because of their nature, and the inadequacy of our facilities, require the services of civilian lawyers in active practice. For instance, a large portion of the work has to do with questions pertaining to domestic relations, and particularly divorce proceedings, and, pursuant to this plan, such matters may now be referred to the local members of the Committee on War Work appointed by the American Bar Association, with the greatest degree of confidence in both their ability and integrity.

In other words, the Army needs the services of civilian lawyers for the rendition of a kind of service which the military is not in a position to render, and the plan now in effect simply provides for the participation of

lawyers in practice near army camps and posts in the rendition of this service, for the nature of many of the problems submitted immediately suggests the wisdom of recommending to the applicant that he refer his problem to some competent civilian counsel.

I might also mention that the Junior Bar Conference of the American Bar Association is now preparing a compendium of the laws and legal forms of all the States relating to Wills, Trusts, Powers of Attorney, and allied subjects of interest to those in the Armed Forces, for the use of the 'Legal Service Officer' and the civilian lawyers in dealing with the legal problems of soldiers, and whereas such a digest will undoubtedly be of great assistance in the handling of this work, I have no idea as to just when it will be published, and made available.

In so far as concerns Camp Shelby, the service has been sufficiently well established to estimate the volume of work that is being submitted to the office, and it is averaging about 200 requests a month, of which an average of 20 have had to be referred to civilian lawyers.

Such a committee of civilian lawyers practicing in Hattiesburg was appointed early in April by Mr. Forrest Cooper, Chairman of the American Bar Association Committee on War Work, and a rotating roster of these attorneys is maintained in the Legal Assistance Office, whereby two members of the Committee come out to Camp Shelby every Wednesday evening for prearranged conferences with soldiers whose problems require the service of civilian counsel, and this Committee is now rendering valuable assistance in dealing with the legal problems of the service personnel at Camp Shelby.

All of us who in a sense represent the legal profession in the military service are very proud of the assistance which is being rendered the Army in this emergency by the legal profession, and your State Bar is quite justified in feeling that it is making a very patriotic and substantial contribution to the War effort in the rendition of this service.

However, excellent work, as we all know, oftentimes apparently goes unrecognized, simply because there is no one charged with the responsibility of giving applause to the men who do the job, and I therefore welcome this opportunity to express the deep appreciation of the Commanding General at Camp Shelby for the assistance which is being rendered to the soldiers in this emergency by your State Bar Association, and more particularly by the members of your local War Work Committee in Hattiesburg.

And in closing permit me to extent to you the respects, and best wishes, of General Halloran, the Commanding General of Camp Shelby.

Judge Stevens then gave the report of the committee appointed earlier in the morning:

JUDGE STEVENS: In view of the emergency here and to save time, we have taken the resolution and simply revised it as best we could in the limited time we had. Here is the resolution:

WHEREAS, to win this war requires all out and full time service for all:

No one has the right to quit work for any reason personal to himself or his group, nor has any one, employer or employee, any right to exact higher compensation for his labor or increase profits in manufacture or production of essential war materials.

Governmental machinery most favorable has been set up to settle labor disputes, and all should require its use without any stoppages.

Racketeers and profiteers, whether employer or employee, must be curbed at once, and anyone taking advantage of the necessities of the government to exact higher compensation or stop work in a war factory is an enemy to the government.

There are two fronts—home and war—and no one on the home front has any more right to stop or impede work than the soldier has to lay down his gun before the enemy. We on the home front must assure our fighting forces of full dedication, not only of man power but all of our resources, until victory is won.

Everyone, including the Government, must have one objective—WINNING THE WAR. No one has a right to try to "remake" America during battles. Our soldiers are fighting for the American Way of Life, and they have a right to demand that they be permitted to return to an American Way of Life that they have fought for. They have a right to demand that whatever changes this country makes in the future must come about through Constitutional processes and by the vote of all the people, including our men now fighting on the far flung battlefields of the world.

THEREFORE, BE IT RESOLVED by the Mississippi State Bar in Convention assembled at Meridian, Mississippi, June 3, 1943:

That we call on the President and the Congress to correct existing evils at once, and, forgetting all politics, to put the full force of the Government and all employees and bureaus whole-heartedly behind the effort to win the war. For the accomplishment of this high purpose we pledge ourselves, our fortunes, our resources and our sacred honor.

Be it further resolved that a copy of this Resolution be sent to the President of the United States and to our Representatives in Congress.

The motion was unanimously passed by a rising vote of the entire assemblage.

President Engle then called for nominations for President of the Mississippi State Bar. Mr. Ross Barnett of Jackson was placed in nomination by Mr. Marion Reily whose remarks follow:

Mr. Reily: I have known Mr. Barnett since childhood. Like so many lawyers, he came from the rural district of the State. He attended college and through his own effort and by his own labor graduated accomplishing in two years what men ordinarily accomplish in three years. He then attended the University of Vanderbilt that he might better qualify himself for his life work.

In nominating Mr. Barnett, I feel that I am presenting to this assemblage a man who has all of the qualifications necessary for the office to which I nominate him. For a man to be President of this Association, he ought to understand the problems of all of the lawyers of the Mississippi Bar. It matters not whether a man lives in the rural districts where he deals with the lower courts and chancery courts and circuit courts, or whether he lives in Jackson where he appears before the Appellate, Federal and State Courts in order to be President of this Association and discharge the duties of that place; he ought to understand the problems of them all. This man has come from the bottom and the one thing about him that marks him as a great man is that his coming up has not affected the bearing of Ross Barnett in his dealing with his fellowmen. He is today the same kind, considerate, courteous gentleman that he was seventeen years ago when he began the practice of law in Jackson, a stranger in that City. He is not only a courteous lawyer, but he is competent. I make this comment that Ross Barnett has won as many verdicts in the Courts of Mississippi within the last ten years as any man known to me, and let me pause right here to say that there is a disposition upon the part of people to criticize men because they win their cases. We must not be displeased with those who criticize those who win their controversies; they are not to blame; they just can't understand it that is all, and Ross Barnett by appealing to the sense of duty of the jurors, by preparing his cases, by close study, by putting into his cases the very best that is in him, has succeeded and he is known today as one of the most successful, if not the most successful trial lawyer in the State of Mississippi and if you elect him to this place every lawyer, however humble, shall find in him a friend who will understand his problem and who will sympathize with him in every proposition brought to the President of the Bar Association.

Ross Barnett is wafting to those high planes which must characterize a great lawyer. There can be no compromise with a lawyer. I have always taken the position that it is the solemn duty of every man who prac-

tices law to do everything in his power to ascertain the truth concerning the controversy in which he is offered employment. There is an obligation to find the truth, and I have no respect for the lawyer who takes a position in Court and says, "My client insists that I take that position." Why, I would rather be a dog and bay at the moon than to call myself a lawyer and be so afraid of the man that hired me that I could not look him in the face and tell him, "You are wrong; you can not employ me to participate in doing that which I know is wrong."

What we need is the confidence of the public; we need to walk so and discharge our duties to men that men will look upon us as men not striving to win lawsuits, but justice and right, tried in the Court of this State, and it is because Ross Barnett is a man of that type that I take the great pleasure I do in presenting to you Honorable Ross Barnett of the Jackson Bar, for your next President. I thank you.

Mr. Barnett's nomination was seconded by Mr. Charles Snow and Mr. W. A. Ellis, on motion of Mr. J. H. Caldwell the nominations were closed, and Mr. Barnett declared unanimously elected.

Mr. Engle's remarks follow:

MR. ENGLE: I gladly and happily release the authority of this office to such able hands. I want to say that concerning Ross Barnett, a distinguished lawyer and a Judge, lately a Judge on the Circuit Court, Judge Barbour of Yazoo City, told me one evening when we were discussing men and things generally, he paid Ross Barnett what I think is a compliment every lawyer would love to have said about himself but I know it would not be true for so many of us, including your recent past President. He said, "I never in all my life heard Ross Barnett say an unkind thing about any other lawyer."

President-elect Barnett was then presented. His remarks follow:

MR. BARNETT: Mr. Chairman, Ladies and Gentlemen of the Mississippi State Bar: You know there are two instances when good things are said of another; one time is at a man's funeral, and the other time is just before he is about to be voted on, so I appreciate very much these kind and generous remarks made by my good friends, the Honorable Marion W. Reily, and Charley Snow of the Jackson Bar, and the Honorable W. A. Ellis of Carthage. Now, my friends, Mr. Caldwell, Mr. Ellis and I came from a county that was for a long time noted for two things until recently—it had never had a railroad wreck nor a bank failure. Mr. Ellis said I came from Standing Pine. Well, ladies and gentlemen, I made that assertion the other day, and a man said, "No, sir, you came from half-way between Standing Pine and Free Trade."

I am not going to talk long, ladies and gentlemen; if I should I suspect you would have the same attitude towards me some people had toward a little girl not long ago. She came running home and said to her mother. "Mother, does the Lord love a person better standing up or sitting down?" Her mother said, "Child, why should I know." "Well," said the little girl, "last Sunday at Sunday School they made us stand and sing stand up, stand up for Jesus, and last night at the picture show I was seated on the front row and I stood up so I could see better and everybody behind me hollored, 'For Christ's sake, sit down'." So if I should talk long you might be saying, "Ross, for Christ's sake, sit down."

I most sincerely thank you from the depth of my heart for the honor you have bestowed upon me as President of the Mississippi State Bar and for your expression of confidence in me. I deeply appreciate that and I am fully aware, ladies and gentlemen, of the great responsibilities of the President of the Mississippi State Bar but I propose and I promise to devote my time, my energy, and my efforts to the great and high office to which you have entrusted me. I promise to devote my time and my efforts not only in order that the interests of the Mississippi State Bar may be promoted but, my friends, in order that society, and this great free republic, the interests of this great free republic of which you and I have the privilege and the honor of being members, may always be promoted. I know that there will be many difficult problems that will face the Mississippi State Bar during the next twelve months, but, gentlemen of the Mississippi State Bar, lets face these problems boldly, bravely, unitedly, and with faith, and if we will do that, they will not be so difficult after all.

Ladies and gentlemen, I again thank you for bestowing upon me the highest honor within the gift of the members of the Mississippi State Bar and I hope and pray that I may be able to fulfill the requirements and meet your expectations in the discharge of the duties that are assigned to me. I thank you.

The chair called for nominations for first vice-president. Mr. Bidwell Adam, of Gulfport, was nominated by Mr. Martin Miller, of Meridian, and the nomination was seconded by Mr. E. H. Green, of Cleveland. On motion of Mr. C. W. Hosey, of Laurel, the nominations were closed and Mr. Adam declared elected unanimously. Mr. Adam then made a short statement of appreciation.

Nominations were called for second vice-president. Mr. Earl L. Wingo nominated for second vice-president Mr. George Cossar of Charleston. Mr. E. H. Green seconded the nomination and moved that the nominations be closed. Mr. Cossar was declared elected by acclamation, and expressed his appreciation of the vote.

The members of the Convention separated into district meetings and elected the following Commissioners:

Ben H. McFarland, Aberdeen
R. W. Thompson, Jr., Gulfport
Hindman Doxey, Holly Springs
Robert D. Everitt, Ruleville
Jack B. Carlisle, Ackerman
S. B. Laub, Natchez
Hubert S. Lipscomb, Jackson
W. A. Ellis, Carthage
Landman Teller, Vicksburg
Gibson Witherspoon, Meridian
Partee L. Denton, Marks
J. Kearney Travis, Hattiesburg
G. H. Merrell, Collins
E. F. Coleman, Purvis
J. E. Caradine, West Point
J. H. Caldwell, Charleston
Hugh V. Wall, Brookhaven

Major W. Calvin Wells moved that the Bar Association offer thanks to the Lauderdale County Bar for the splendid entertainment offered the members of the Convention. The motion was carried unanimously.

Mr. Alexander Currie moved that a place for the next meeting of the Bar not be selected because of the changing conditions of war, but that authority be vested in the officers of the Association, the President, the Vice-Presidents, and the Commissioners, to name the place not less than sixty days before the date of the next annual meeting. The motion was seconded and discussion was called. The President of the Hinds County Bar Association extended an invitation to the Bar to meet in Jackson. Mr. Currie's motion to allow the incoming administration to select the next place of meeting was passed.

Motion to adjourn was adopted.

RESOLUTION

BE IT RESOLVED; That the Bar Commissioners for the State of Mississippi at their Regular September Meeting hereby go on record as being opposed to Sec. 4 of H. R. No. 2703 an act passed in the first session of the 78th Congress, Public Laws 144, Chapter 233, which reads as follows:

> "(4) Any benefit payable or paid by the Veterans Administration shall be subject to the applicable provisions of Public Law No. 262 Seventy-Fourth Congress (U.S.C. title 38, Secs. 556a, 454 a) as now or hereafter amended; PROVIDED, That in any case of an incompetent veteran having no guardian, payment of compensation, pension, or retirement pay, may be made in the discretion of the Administrator to the wife of such veteran for the use of the veteran and his dependants; AND PROVIDED FURTHER, That payment of death benefits to a widow for herself and child or children, if any, may be made directly to such widow, notwithstanding she may be a minor. The Act of Aug. 8, 1882 (22 Stat U.S.C. title 38, Sec. 44) is hereby repealed and any other law in conflict herewith is modified accordingly".

This act being in direct conflict with the rights of the several states to safeguard its incompetent citizens in the administration of the estates of minors and incompetent persons.

The heroes in the present World War II are entitled to all the safeguards possible to see that their families are taken care of under proper supervision of the courts of the various states.

The laws of the states, which have been amended and changed for centuries, and which now protect infants and incompetent persons zealously would be ignored.

Now, Therefore, we the undersigned Commissioners hereby go on record as opposing this part of the act as quoted above and ask that a copy of this resolution be sent to the President of the American Bar Association, the two Senators from Mississippi, and each Congressman, with a request that they reconsider this matter and introduce appropriate legislature to change and amend this section so as to allow the several states under the jurisdiction of its own laws administer the estates of disabled or deceased veterans in the same manner as they would administer the estate of other citizens under a like disability.

Further that a copy of this resolution be passed to the press and to each Commissioner with a request that it be published in at least one newspaper in each of the Judicial Districts in Mississippi, so that the lawyers

throughout the state shall be notified of the existence of such law and that the same shall be published in the Mississippi Law Journal in the next issue.

Unanimously passed on this the 29th day of September, A. D. 1943.

Commissioners:	Commissioners:	Ross R. Barnett, President
J. E. Caradine	R. W. Thompson, Jr.	
Hugh V. Wall	W. A. Ellis	Lottie Kuykendall, Secretary
J. K. Travis	Gibson Witherspoon	
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Barrett, Pat M., Lexington
Bass, Catherine, Jackson
Bates, Henry Grady, Liberty
Bates, Jean M., Starkville
Batson, W. C., Wiggins
*Bauer, T. L., Natchez
Bean, George, Okolona
Beard, W. A., Jr., Laurel
*Bearden, Wm. Ellis, Jr., Okolona
Beckett, R. Capel, Chicago, Ill.
Belk, Fred M., Holly Springs
Belk, Wm. D., Holly Springs
Bell, A. H., Greenwood
Bell, B. F., Starkville
Bell, James W., Jr., Tunica
*Bennett, John D., Jackson
Bennett, R. E., Meadville
*Berger, Frederic C., Port Gibson
*Berman, Joseph E., Lexington
Bernreuter, Raymond G., Kosciusko
Berry, S. B., Hattiesburg
Bickerstaff, R. O., Gulfport
*Biedenharn, James P., Vicksburg
Bilbo, Theo G., Jackson
Black, E. C., Marks
Black, Maurice R., Carrollton
Blackwell, Wm. Duncan, Gulfport
Blair, W. A., Tupelo
Blalock, James A., Vicksburg
*Bliss, Ernest, L., Jackson
Bloedorn, Helen May, Cleveland
Blount, James A., Charleston
Bogen, Edward J., Greenville
Boggan, F. G., Washington, D. C.

*Armed Forces

Bolton C. R., Tupelo
Bonelli, Albert M., Vicksburg
*Booth, Richard B., Aberdeen
Boren, H. A., Kingsport, Tenn.
Bostic, Carl C., Jackson
Bourdeaux, R. M., Meridian
Bouslog, M. P., Yazoo City
Boutwell, John Amos, Newton
Bowdre, P. H., Hernando
Bowring, Lynden, Biloxi
Boydstun, R. W., Louisville
Boykin, Mack L., Vaiden
Boyles, James B., Batesville
Bozeman, Albert, S., Jr., Meridian
Bozeman, Albert S., Meridian
*Brackstone, Fernand D., Corinth
*Braden, William, Jr., Natchez
Bradford, J. W., Itta Bena
*Bradshaw, Fred W., Jackson
Brady T., Jr., Brookhaven
Brady, Thos. Pickens, Jackson
*Brady, Tullius, Brookhaven
Bramlette, Maxwell, Woodville
Brandon, G. H., Natchez
Brandon, J. M., Natchez
Brannon, Mary Sue, Jackson
*Branton, Wm., Coleman, Greenville
Bratton, C. A., Oxford
Bratton, Thos. S., Jackson
Breland, J. J., Sumner
Brennan, E. F., Brookhaven
*Brewer, E. Cage, Clarksdale
Brewer, Dan C., Clarksdale
Brewer, Ed C., Clarksdale
*Brewer, Norman C., Greenwood
*Bridgeforth, Walter R., Yazoo City
Bridgeforth, Allen, Yazoo City
Bridges, L. C., Purvis
*Britt, George Thomas, Jackson
Britton, E. H., Macon
Broach, Walker, Jr., Meridian
Broadus, A. Q., Purvis
Broadway, L. J., Meridian
Brocato, V. J., Clarksdale
*Brock, Edmond R., Mobile, Ala.
Brooks, Homer, Washington, D. C.
Brooks, Rodney, Clarksdale
Broom, Harmon W., Jackson
Broom, S. C., Jackson
*Broom, S. C., Jr., Jackson
*Broome, Willie M., Tylertown
Brown, A. L., Rolling Fork
*Brown, Berry Davis, Greenwood
*Brown, Edwin Hull, Starkville
Brown, J. H., Fulton
Brown, James T., Jackson
Brown, Jos. E., Natchez
Brown, L. W., Starkville
*Brownstein, Fred X., Rolling Fork
Bruce, Arthur, Greenwood
Brunini, Alexander J., Vicksburg
Brunini, Edmund L., Vicksburg
Brunini, J. B., Vicksburg
Bryan, Harry M., Jackson
Bryant, Rae, Gulfport
Buchanan, Ivy Lee, 705 18th St., N. W., Washington, D. C.
Buchanan, James R., Laurel
Buckley, J. Emmett, Enterprise
Bullock, H. H., Brandon
Buntin, R. R., Gulfport
Burgin, D. A., Columbus
Burkett, John G., Jackson
Burns, James A., (Col.), Meridian
Burns, Robert, Jr., Jackson
Burrow, Gerald, Jr., Tunica
Busby, Arthur G., Jr., Meridian
Busby, A. G., Meridian
Bush, M. M., Hattiesburg
*Butler, George H., Jr., Jackson
Butler, George H., Jackson
Butler, James W., Jackson
Butler, John Sharp, Quitman
Butler, M. M., Pascagoula
*Butts, Dr. A. B., University
Byars, Wilton Vance, Bruce
Byrd, A. M., Orlando, Fla.
Byrd, J. L., Jackson
Byrd, T. H., Lucedale
*Cain, Robert, Canton
*Cain, Wm. Sterling, Canton
*Caldwell, Benj. M., Marks
Caldwell, J. H., Charleston
Caldwell, J. H., Jr., Charleston
*Caldwell, Thos. Eugene, Marks
Calhoun, Edwin L., Mount Olive
*Calhoun, Robert L., Mount Olive
*Calhoun, S. K., Tylertown
*Callender, Bernard, Columbia
Callon, B. C., Natchez
Cameron, Ben F., Meridian
Cameron, Chas. B., Meridian
Campbell, A. C., Tutwiler
*Campbell, Geo. H., Yazoo City
Campbell, J. Edwin, Laurel
Campbell, T. H., Yazoo City
Campbell, T. H., Jr., Yazoo City
Campbell, Thos. J., Washington, D. C.
Campbell, Virginia Ruth, Yazoo City
Canizaro, Jack, Vicksburg
Canizaro, P. C., Vicksburg
*Cannada, Robert Cox, Edwards
Caradine, J. E., West Point
Carlisle, Jack B., Ackerman
Carlton, L. K., New Albany
Carlton, C. Sidney, Jackson
Carmichael, Benj. B., Greenville
*Carmichael, Gerald B., Utica
Carney, K. A., Clarksdale
Carothers, A. M., Grenada
Carr, J. M., Newton
Carruth, John Ellzey, Columbus
Carter, H. T., Louisville

*Armed Forces

Case, H. F., Quitman
Casey, Offa Lunsford, Laurel
Cassedy, J. W., Brookhaven
*Cassell, Charles J., Batesville
Cassidy, J. J., McComb
*Cassedy, Wm. P., Brookhaven
Catchings, O. W., Woodville
Catoe, Earl V., Jr., Webb
Causey, H. F., Cleveland
*Cauthen, Nelson H., Canton
Chadwick, Carl A., Tuscaloosa, Ala.
Chalk, Mrs. Sarah Adeline, Brookhaven
Chambers, Paul B., Jackson
Chandler, Joe B., Jackson
Chaney, George, Vicksburg
Chapman, M. R., Jackson
Charles, Sarah A., Washington, D. C.
Chatham, Gerald W., Hernando
Cheney, Reynolds S., Jackson
Chill, Bernard W. N., Jackson
Chiz, Raymond, Shaw
Clark, A. B., Indianola
Clark, Chas. E., Ocean Springs
Clark, E. S., Hollandale
Clark, Frank, Waynesboro
Clark, Lester, Hattiesburg
Clark, T. A., Iuka
Clark, Virginia, Jackson
*Clayton, Claude F., Tupelo
*Clayton, Hugh N., New Albany
Clayton, S. P., Tupelo
Clements, E. C., Rolling Fork
Clements, W. H., Rolling Fork
Cleveland, Arthur T., Fulton
*Cochran, Hunter K., Holly Springs
Cochran, Lonis, 624 23rd St., Santa Monica, Calif.
Cody, F. G., Biloxi
*Cofer, Kermit R., Water Valley
Cohen, Marvin A., Jackson
Cohen, A. A., Brookhaven
*Coker, Joseph Forrest, Summit
Coleman, Edward F., Purvis
Coleman, A. Jerry, Vaiden
Coleman, J. M., Aberdeen
Coleman, James P., Ackerman
Coleman, Walter D., Natchez
Collins, F. B., Laurel
*Collins, Robt. W., Jackson
Collins, Ross W., Meridian
Colmer, Wm. M., Pascagoula
Colson, J. G., Greenwood
*Condon, Wm. Patrick, Greenville
Conger, J. W., Winona
Conn, W. D., Sr., Corinth
Conner, Claude E., Columbia
*Conner, Dudley W., Hattiesburg
Conner, Mrs. Evelyn Hunt, Bay St. Louis
Conner, M. S., Jackson
Conway, Wm. F., Hattiesburg
Coody, A. S., Jr., Jackson
Cook, Everett E., Gulfport
Cook, Sam C., Jr., Greenville
Cook, Virgil Griffith, Hernando
Cooper, A. W., Forest
Cooper, Conrad E., Tulsa, Okla.
Cooper, E. B., Laurel
Cooper, Forrest G., Indianola
Cooper, J. E., Purvis
Cooper, R. D., Meridian
*Cooper, S. B., Philadelphia
Corban, L. C., Biloxi
Corban, R. L., Jr., Fayette
Corley, W. U., Collins
Cossar, George P., Charleston
*Cottrell, David, Jr., Gulfport
*Coursey, B. F., Decatur
Cousins, George B., Jr., Biloxi
Covington, A. W., Quitman
Covington, J. A., Jr., Meridian
Cowan, R. C., Gulfport
Cowart, C. F., Meadville
Cox, Allen, Baldwin
Cox, John Bruce, Shreveport, La.
Cox, W. A., Marks
Cox, Stanley M., St. Louis, Mo.
*Cox, W. H., Baldwin
Cox, Wm. H., Jackson
Craggs. C. J., Cleveland
Craig, John, Jackson
*Crawford, Marvin, New Albany
Crawley, David, E., Kosciusko
Crawley, David E., Jr., Kosciusko
Crawley, James T., Jr., Kosciusko
Creekmore, H. H., Jackson
Creekmore, Rufus, Jackson
Creekmore, Wade H., Jackson
Crisler, Bert, Jackson
Crisler, John W., Clarksdale
Critz, Frank A., West Point
Crocker, Rowell T., Newton
Crosby, Kenneth M., Brooklyn, N. Y.
Crum, C. L., New Albany
Culkin, J. H., Vicksburg
Cunningham, E. Hugh, Jackson
*Cunningham, F. W., Booneville
Cunningham, J. E., Booneville
Cunningham, James A., Booneville
Cunningham, James A., Jr., Booneville
Currie, Alexander, Hattiesburg
Currie, E. J., Jr., Hattiesburg
Currie, George W., Hattiesburg
Currie, Homer, Raleigh
Currie, Neal T., Hattiesburg
*Curtis, Chester Harris, Clarksdale
Cutrer, R. W., Magnolia
Dabney, F. Y., Vicksburg
Dabney, J. B., Vicksburg
Dabney, L. B., Vicksburg
Dale, R. H., Columbia

*Armed Forces

Dale, Sebe, Columbia
Dale, T. Price, Hattiesburg
Dalton, Terry J., New York, N. Y.
Daniel, G., Odie, Starkville
Daniel, Joe H., Lambert
Daeden, Tom Leslie, New Albany
Davidson, Harold W., Carthage
Davis, E. W., Port Gibson
*Davis, Howard Q., Indianola
Davis, James E., Hattiesburg
Davis, James L., Louisville
Davis, Jefferson, Jackson
Davis, S. F., Indianola
Davis, T. B., Columbia
*Davis, Thomas Baker, Van Vleet
Davis, T. W., Jr., Purvis
Davis, W. S., Waynesboro
Daws, J. H., DeKalb
Day, J. O., Clarksdale
Day, Lewis H., Laurel
Day, R. H., Decatur
Dean, Hermon, Canton
Dean, J. F., Senatobia
Deaton, Joe Sanford, Plantersville
*Deavours, Burns M., Laurel
Deavours, Jack, Laurel
*Dees, Anse, Philadelphia
Denman, R. D., Greenwood
Dent, E. L., Collins
Dent, J. R., Gulfport
Dent, R. L., Vicksburg
Denton, C. L., Meridian
Denton, P. L., Marks
Diamond, Harry, Greenwood
*Dickson, Archie L., Jr., Jackson
*Dixon, T. Vincent, Senatobia
*Doggett, Grover, Laurel
*Dore, Donald Edward, Jackson
Dossett, W. D., Beulah
Doty, Lemuel H., Biloxi
Douglas, P. Lanier, Starkville
*Dovith, Melvin, Belzoni
*Doxey, Hindman, Holly Springs
Doxey, Wall, Holly Springs
Drake, Carl F., Durant
Drake, Joseph Turpin, Jr., Port Gibson
Dulaney, J. W., Tunica
*Dunn, Edwin A., Meridian
*Dunn, J. Thomas, Memphis
Dunn, Vardaman S., Jackson
Dunning, F. S., Canton
Dwyer, Robert E., Greenville
Dyer, Howard, Jr., Greenville
Dyke, Herbert H., Laurel
Eager, P. H., Jr., Jackson
East, J. R., Brandon
Easterling, Lamar F., Jackson
Eastland, J. O., Ruleville
Eastland, Oliver, Greenville
Eaton, B. E., Gulfport
*Eaton, B. E., Jr., Gulfport
Eaton, James Samuel, Gulfport
Eddins, Joseph A., Rosedale
Edmonds, Henry, Jackson
Edwards, A. K., Jackson
*Edwards, Allan T., Jackson
Edward, A. M., Mendenhall
Edwards, J. P., Mendenhall
Ellis, W. A., Carthage
Elmer, F. W., Jr., Biloxi
Elliott, Benton W., Ripley
Engle, C. F., Natchez
Enochs, Dewitt C., Jackson
Estopibal, Wm., Gulfport
Etheridge, F. K., Meridian
Etheridge, F. K., Jr., Meridian
Ethridge, Geo. H., Jackson
*Ethridge, Geo. M., Jr., Meridian
Ethridge, W. N., Houston
Ethridge, W. N., Jr., Oxford
Eudy, J. E., Eupora
Evans, H. H., Gulfport
Evans W. J., Calhoun City
Everett, Frank E., Indianola
Everett, Frank E., Jr., Vicksburg
Everett, Robert D., Ruleville
Ewing, Jack H., Liberty
Ewing, T. G., (Col.), Vicksburg
Fair, Charles D., Louisville
Falkner, J. W. T., Oxford
Fant, Herbert M., Sardis
Fant, Hester G., Holly Springs
Fant, Lester G., Jr., Holly Springs
*Farese, John A., Ashland
Farish, H. P., Greenville
Farr, Paul H., Prentiss
*Farrell, Herbert D., Taylorsville
*Fedric, Wm. Henry, Grenada
*Feduccia, Joseph C., Cleveland
Feibelman, Cedric L., Jr., Vicksburg
Felts, Holland O., Greenville
Finch, Henry L., Laurel
Finch, J. D., Iuka
Finch, James, Hattiesburg
Finch, J. S., Booneville
Finley, J. A., Tupelo
Fishel, E. C., Hattiesburg
Flowers, J. B., Jackson
Floyd, Earle N., Jackson
Floyd, Jason H., Senatobia
Floyd, J. C., Meridian
*Fly, Henry A., Yazoo City
Fontaine, J. B., Pontotoc
Fontaine, W. B., Jackson
Foote, Lawrence Y., Hattiesburg
Ford, Evon A., Taylorsville
Ford, E. J., Pascagoula
Ford, E. J., Jr., Gulfport
Ford, J. I., Pascagoula
*Ford, Wm. Reynolds, Taylorsville
Forman, J. M., Indianola
Forman, Richard Brent, Jr., Natchez

*Armed Forces

Fountain, D. G., Jackson
Fox, John H., University
Franklin, J. B., Jackson
Franklin, J. E., Jackson
*Franklin, Lester C., Jr., Jackson
Franks, Donald, Batesville
*Frey, M. M., Jackson
Friend, Joe N., Jackson
Frierson, John F., Columbus
Fuller, Henry H., Laurel
*Fuller, Aubrey D., Jackson
*Gailard, G. Rayner, Washington, D. C.
Galloway, Charles R., Gulfport
Galloway, J. F., Gulfport
Gandy, Edyth Evelyn, care Sen. Bilbo, Washington, D. C.
*Gandy, George, Collins
Gardner, A. F., Jr., Greenwood
Gardner, Albert S., Jr., Yazoo City
Gardner, Hanun, Gulfport
*Gardner, Hanun B., Gulfport
Gardner, Tom M., Gulfport
Garner, A. H., Joplin, Mo.
Garner, Boyce Lee, Hernando
Garner, Martin, Tunica
Garnett, C. L., Columbus
Garraway, J. T., Purvis
Garth, J. Hunter, Hazlehurst
*Gartin, Carroll, Laurel
*Gary, W. D., Eupora
*Gaston, Chester Davis, Columbus
Gautier, H. W., Pascagoula
Gee, John B., Rolling Fork
*Gee, Wm. C., Lambert
Gee, W. F., Clarksdale
Geisenberger, W. A., Natchez
Genin, R. L., Bay St. Louis
Gerald, Eugene, Leland
Gex, Lucien M., Bay St. Louis
Gex, Walter J., Bay St. Louis
Gholson, Daniel P., Holly Springs
Gholson, Mary Caruthers, Port Gibson
Gilbert, C. E., Monticello
Gilbert, V. W., Meridian
Gillespie, H. B., Raymond
Gillespie, Hugh B., Jr., Raymond
Gillespie, R. G., Meridian
Gilliam, L. Alex, Jr., Clarksdale
Gipson, J. R., Meridian
Gipson, J. V., Meridian
Glass, D. H., Kosciusko
Glazier, Herman Cowen, Jr., Clarksdale
Gober, Curtis A., Jackson
Good, V. W., Vicksburg
*Goodman, F. C., Biloxi
*Gordon, Chas. M., Jackson
Gordon, C. T., Liberty
Gordon, Joe D., Liberty
Gordon, L. E., Meridian
Gore, Ney M., Jr., Marks
Gordon, Wm. H., Washington, D. C.
Gork, T. N., Marks
Goss, B. J., Columbus
Goss, Roy J., Jackson
Graham, D. M., Gulfport
Graham, D. M., Jr., Gulfport
Graham, Hardy M., Meridian
Graham, J. H., Meridian
Graham, S. M., Meridian
Grant, Leslie B., Biloxi
Graves, Charles L., Jackson
Greaves, H. B., Canton
Greaves, J. M., Madison
Greaves, P. D., Gulfport
*Green, A. Wigfall, University
Green, B. A., (Col.), Mound Bayou
Green, E. H., Cleveland
*Green, Garner W., Jr., Jackson
Green, Garner Wynn, Jackson
Green, Marcellus Calhoun, Jackson
Green, Marcellus, Jackson
Green, John D., Jr., Starkville
Gregory, James T., Forest
Griffing, Homer B., Meadville
Griffing, R. E., Brookhaven
Grice, L. E., Crystal Springs
Griffith, V. A., Gulfport
*Guice, Claude W., Fayette
*Guice, Jacob D., Biloxi
Guice, W. L., Biloxi
*Guider, Ben, Vicksburg
Gully, J. B., Jackson
Guy, T. A., Greenwood
Guynes, J. F., Hazlehurst
Guyton, J. D., Kosciusko
Guyton, T. P., Kosciusko
*Gwin, Lucien C., Natchez
Gwinnup, Harry G., Jackson
Haddock, James H., Philadelphia
Hafter, Jerome S., Greenville
*Hairston, Charles C., Jr., New Augusta
*Hakes, Doric D., Rolling Fork
Hall, Edward C., 1310 N. Abington St., Arlington, Va.
Hall, H. G., Jackson
*Hall, Francis L., Tupelo
Hall, Lee D., Columbia
*Hall, Stanton A., Hattiesburg
Hall, Toxey, Columbia
Hamilton, George S., Jackson
*Hamlin, James E., West Point
*Hamlin, Wilbur G., West Point
Hammond, Kelley J., Columbia
Hamner, W. M., Greenwood
Handy, Geo. Stuart, Natchez
Hannah, T. C., Hattiesburg
Hannon, John, Raymond
Haralson, William, Hattiesburg
Hardy, W. F., Jackson

*Armed Forces

Harmon, Francis S., 28 West 44th St., New York, N. Y.
Harmon, John M., Union
*Harmon, Hunter, Meridian
Harper, W. Y., Jackson
Harper, Charles Edward, McComb
Harper, Jack Evans, Jr., Indianola
Harper, Matthew, Jr., Federal Land Bank, New Orleans
Harris, W. R., Box 1038, Jackson
Harryman, Clifford J., Jackson
*Hartford, Robert W., Jackson
Hartley, T. A., Starkville
Harty, Emmett, Greenville
Harwell, J. Emerson, Meridian
Hathorn, C. V., Columbia
Hathorn, Herbert C., Hattiesburg
Hathorn, Hoy, Louisville
Hatten, W. J., Sumrall
Hauberg, Robert E., Jackson
*Hawkins, Frank L., Vaiden
Hawkins, George, Ben Flora
Haydon, Chas. R., Gulfport
Haynes, M. Paul, Baldwin
Hedgepeth, T. H., Federal Land Bank, New Orleans
Hegwood, A. W., Jackson
Heidelberg, C. F., Jr., Jackson
Heidelberg, H. P., Pascagoula
Heidelberg, M. L., Waynesboro
Heidelberg, R. W., Hattiesburg
Heiss, J. L., Gulfport
Heiss, J. L., Jr., Gulfport
Hendrick, Leon F., Jackson
Hendrix, Thomas D., Jackson
*Hengen, Louis, Biloxi
Hennington, Lamar, Hattiesburg
Henley, W. S., Hazelhurst
Henry, W. A., Yazoo City
Herring, Geo. B., Canton
Herring, Lee, Ruleville
Hewes, Gaston, Gulfport
Hewes, Wm. G., Gulfport
Hewitt, F. D., McComb
*Hewitt, Wm. H., Jackson
Hewitt, W. Wilson, Summit
Hicks, Graham H., Jackson
Hill, C. E., Hattiesburg
Hill, John Robert, Washington, D. C.
Hill, Tillis, Lucedale
Hillman, J. B., Philadelphia
Hilton, R. T., Jackson
Himelstein, Ben, Moorhead
*Hobbs, H. W., Jackson
Hoffman, C. L., Gulfport
Holcomb, Pascal D., Clarksdale
Hollis, J. O., Carthage
Holloman, John H., Columbus
Holloman, Frank C., Columbus
Holmes, D. B., Jr., Meridian
Holmes, E. R., Jr., Jackson
Holmes, F. C., Jr., Hernando
Holmes, F. C., Hernando
Holmes, G. M., Aberdeen
Holmes, Herbert, Senatobia
Holmes, H. T., Winona
Holmes, J. G., Yazoo City
*Holmes, John S., Yazoo City
Hood, Josephine, Canton
*Hopkins, Hugh Sam, Jackson
Hopkins, Jos. W., Clarksdale
Hopper, H. A., Corinth
Horan, John, Water Valley
Horan, Leo, Jackson
Hornsby, Oliver, Natchez
Horton, Cowles, Grenada
*Horton, Frank Collins, Grenada
Horton, Wm. T., Jackson
Hosey, G. W., Laurel
Houchens, John H., Jackson
Houston, D. W., Sr., Aberdeen
*Houston, D. W., Jr., Aberdeen
Howard, Perry W., (Col.), 613 F. St., N. W., Washington
Howie, J. H., Jackson
Howie, Joseph, Jackson
Huber, H. T., Canton
Huff, J. Knox, Forest
*Huff, Wm. A., Forest
*Hughes, Daniel Clyde, Corinth
*Hughes, Phillip D., Meridian
Hulen, Mrs. Elizabeth W., Jackson
Hunt, F. M., Hattiesburg
Hunt, Mrs. Nell W., McComb
Hunter, J. Q., Jr., Union
Hutcherson, H. L., Jackson
Hutchison, C. B., Tupelo
*Hutchison, Edw. G., Jr., Summit
Hutchison, Edw. G., Summit
*Hutton, J. B., Jr., Jackson
Hymers, George, Evansville, Ind.
*Hyten, Robert Milton, Cleveland
Inman, C. E., Jackson
*Inzer, Wm. H., Pontotoc
Ivy, Gates, Westpoint
Jacobson, Gabe, Meridian
Jackson, F. B., Jackson
Jackson, Robert E., Cleveland
*Jackson, Robert Edgar, Jr., Cleveland
Jackson, Wm. F., McComb
*Jaggers, Boudie A., Pontotoc
James, Viola Lee, Gulfport
James, W. W., Newton
*Jarratt, Hill, Batesville
Jarvis, R. T., Booneville
Jarvis, William Elmo, Fulton
Jeffries, Johnston, De Smet, S. Dak.
*Jiggitts, Louis M., Jackson
Johnson, C. E., Union
Johnson, D. R., Batesville

*Armed Forces

Johnson, Elbert, Indianola
Johnson, Harper, Senatobia
Johnson, H. H., Lexington
Johnson, Joseph E., Batesville
Johnson, O. W., (Col.), Prentiss
*Johnson, Paul B., Jr., Jackson
Johnston, Albert Sidney, Jr., Gulfport
Johnston, H. Grady, Hernando
Johnston, Means, Greenwood
Johnston, Oscar, Scott
Johnston, Thos. H., Corinth
*Jolly, Bill, Carthage
Jones, A. H., Woodville
Jones, Bernard H., Jackson
Jones, Bert H., McComb
Jones, C. J., Waynesboro
*Jones, Edward I., Bay St. Louis
Jones, H. F., Belzoni
Jones, L. Barrett, Jackson
*Jones, Maurice M., Jackson
Jones, P. Z., Jackson
Jones, R. L., Brookhaven
Jones, W. Arlington, Hattiesburg
Jones, W. Roger, Hazlehurst
Joor, J. S., Jr., Rolling Fork
Jordan, R. A., Greenwood
Jordan, Terral A., Hattiesburg
Joyner, Ernest Love, Jr., Tupelo
Katz, Andrew D., Hattiesburg
Katzenmeyer, C. Leonard, Vicksburg
Kaufman, M. L., Rosedale
Keady, William C., Greenville
*Keaton, Grayson B., Picayune
Kellner, Ernest, Greenville
Kellum, Joseph W., Tutwiler
Kelly, A. F., Hattiesburg
Kelly, R. M., Vicksburg
Kemp, Carroll, Hazlehurst
Kendall, Henry M., Jackson
Kendall, James T., Jackson
Keyer, James H., Natchez
Keys, R. Taylor, Sardis
Killian, Joseph Howard, Jackson
*Kimbrell, Frank C., Ackerman
Kimbrough, O. L., Greenwood
*Kimbrough, O. L., Jr., Greenwood
Kimbrough, T. C., University
Kimmons, R. F., Water Valley
Kinabrew, Randolph G., Liberty
*Kinbrell, Raymond V., Jr., Greenville
King, Bee, Mendenhall
King, Benjamin, Hazlehurst
King, S. R., Durant
Kirby, R. H., Clarksdale
Kirschten, Mrs. Elizabeth Gwin, 525 Kedgie, Evanston, Ill.
*Knox, Baxter N., Jr., New Albany
Knox, R. H., Jackson
Kuykendall, John M., Charleston
Kyle, John W., Sardis
*Ladner, Hiram Griffin, Jr., Ripley
*Lake, J. A., Jr., Greenville
Lamar, E. L., Calhoun City
*Lamb, Knox, Greenwood
*Lamensdorf, Rolland G., Shaw
Land, John R., Jr., Gulfport
Landrum, Ralph, Jackson
Lane, E. M., Raleigh
Lathan, W. F., Quitman
Laub, S. B., Natchez
Laughlin, Wm. F., Vicksburg
Lawrence, W. O., Bruce
Lawrence, T. J., Vicksburg
Leach, F. E., Carthage
Leach, H. C., Woodville
*Lee, Gettys, Booneville
Lee, Percy M., Forest
Leftwich, Frank S., Aberdeen
Lenoir, James J., University
Leonard, Fred D., Tulsa, Okla.
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